

TB – Minutes  
December 6, 2005

STATE OF NEW YORK  
COUNTY OF WARREN  
TOWN OF BOLTON

Present: Supervisor Alexander G. Gabriels III, Councilmen Scott Andersen, Robert MacEwan, Jason Saris, Edward White, Town Counsel Michael Muller, Town Clerk Kathleen Simmes

Absent: None

PUBLIC HEARING:

At 6:30 pm, Supervisor Gabriels opened the public hearing on proposed Local Law No. 1-2005 Authorizing Contributions To And Contracts With Local Development Corporation and read the proposed law into the record. There were no comments. The public hearing remained open.

Supervisor Gabriels said it has been recommended that in 2006 the public hearings begin at 7:00 pm and the regular Town Board meetings begin immediately thereafter.

REGULAR MEETING:

Supervisor Gabriels called the regular meeting to order at 7:00 pm.

Pledge of Allegiance – Councilman MacEwan

Announcements:

- FEMA has again denied our request for assistance for the June 13<sup>th</sup> storm damage, but the State is appealing the decision.
- According to press reports, Bolton Tops and 11 other Adirondack stores have been sold to C&S Wholesale Grocers of New Hampshire and the deal will close mid February 2006. There has been no news on who might operate the grocery store.
- The blinking traffic lights and the new pedestrian system will not negatively impact traffic flows according to NYSDOT and Officer Jim White. The system is now programmed to change from blinking to green/red from Memorial Day to Labor Day. This timeframe could be changed if the Town Board deems it necessary and makes a request.
- The Bolton Cemetery has reported that it only has approximately 100 plots left. The annual burials average about 10 per year. There is no crisis situation at this time, but the Town Board needs to begin thinking about a cemetery in the future.
- The Meal Site Menu is available in the Town Hall.
- There are now 2 Town of Bolton website addresses: [town.bolton.ny.us](http://town.bolton.ny.us) and [townofboltonlanding.com](http://townofboltonlanding.com).

Supervisor Gabriels introduced Howard Nelson from Hudson Headwaters Health Network who gave a brief presentation on the Hudson Headwaters Consortium, which celebrated its 20<sup>th</sup> anniversary for the Bolton Health Center on December 5<sup>th</sup>. He added that the Town is very well served by having that institution here and that the group has served the community well.

Supervisor Gabriels also said that the furnace at the Health Center went out today due to low oil. Emergency phone calls were made and thanks are in order to Riverside, George Mumblow and Bernie French for their help on such short notice.

Howard Nelson, from Hudson Headwaters, said that he wants to let the community know that they are very grateful for the communities support. He gave statistics on and a history of the Hudson Headwaters Health Network. Their basic mission is to provide care to everybody and they provide many different services. The Bolton Center was the model for later centers and he again expressed many thanks on behalf of Dr. Brian Smead, Nurse Patty Haux and Deb Prouty to the community for its support over the years.

Supervisor Gabriels asked that Howard Nelson bring the community's thanks back to Hudson Headwaters and stated they are serving the public very well and added that Hudson Headwaters is open for any comments or suggestions from community members.

Public in Attendance:

John Gaddy followed-up on his request for the Town Board to consider the Town shed as an unfinished project regarding the lighting. He gave a cost analysis for our lights and said he had requested the lights be put on a motion detector. He was pleased there were only 7 lights on tonight as opposed to the 26 lights that are usually on.

Secondly, John Gaddy said he is requesting the Town to initiate a discussion for a salting policy for roadways within the Lake George Basin. He thinks the Town of Bolton has a responsibility to be lead agency in this concern. He doesn't have any issue with the amount of plowing, but he does have concerns with the amount of salt being used. There are multi-level authorities working on salting the roads and he feels there should be a discussion on this as the chloride levels in Lake George have doubled in the last 20 years and he thinks it is something that should be addressed.

Supervisor Gabriels said that he and John Gaddy have attended many meetings at the Lake George Watershed Conference and salt versus sand is a frequent issue. There are ongoing studies that have not been finalized yet and the doubling of chlorides in the past 20 years is accurate. This is an ongoing topic and a serious issue of concern. He thanked John Gaddy for bringing it to the Town Board's attention.

From the public, Bob Weisenfeld asked if the Bell Point Shores Homeowners Association Inc. has filed the stormwater report for the fall inspection cycle.

Counsel said he does not know and nobody from the Zoning or Planning Office has notified him that it has been received. Supervisor Gabriels said the report has not been received at the Town Hall either. Your point is made and the Town will have to write a letter addressing that absent report.

Correspondence:

- ❑ Letter to Tim Coon from Tim Lawson of the Warrensburg Central School District regarding Burt Morehouse of 628 Wall Street being unable to plow the school bus turn-around used by Warrensburg Central School, and requesting that the Town of Bolton under General Municipal Law has to provide a suitable turn-around or take over the plowing and maintenance of the existing one on Wall Street.
- ❑ Report for the November 19, 2005 meeting of Bolton United/Bolton Cares.
- ❑ Letter to Supervisor Gabriels from Sandi Aldrich, Planning Board Member, regarding the Checci violation. She is strongly urging the Town Board to impose a civil penalty larger than the standard \$1,000.
- ❑ Letter from Mike and Lisa DeRuzzio in favor of the Norowal Acquisition and in favor of the BLDC employing Corky Lamb.
- ❑ Letter from the Bolton Landing Chamber of Commerce regarding requested expenditures from the Bolton Bed Tax in the amount of \$3,000 for an Ice Fishing Tournament, \$4500 for the Fabulous Folk Fest, \$1200 for the Columbus Day weekend fun day for Kids and other suggested ideas without estimated expenses included.
- ❑ Letter from the Bolton Landing Chamber of Commerce regarding an additional requested expenditure from the Bolton Bed Tax in the amount of \$7000-\$8000 for a Lumberjack Show in June to coincide with the Fire Chiefs Convention.
- ❑ Memo from Kathy Simmes regarding the assessment of a civil penalty of \$1000 on property owned by Thomas and Heidi Lemaire on Church Hill Road. The civil penalty was imposed in August and the Lemaire's have passed their 90-day time deadline—no funds have been received to date.
- ❑ Notice of appointments for January 2006 as terms are up for the following Herb Koster on the PB, Greg Smith on the ZBA, and Steve Moffitt and Don Volkmann on the Recreation Commission.
- ❑ Letter from Bolton Central School thanking the Town Supervisor for the update on the concept of additional land swaps and the configuration between the Water District, the Town Board, School Board and the Fire Department. Supervisor Gabriels said that the attorneys are reviewing the concept to see if it can be done and the public will be kept fully involved in public hearings at the appropriate times later on as developments on that issue become more concrete.
- ❑ Letter from Buzz Lamb of Sawmill Bay Marina regarding a water leak, that resulted in usage of 133,000 gallons making the water charge \$690 and the corresponding sewer charge \$550.75. Mr. Lamb is asking for possible relief from some of the sewer charge.
- ❑ Letter from Sam Hoopes regarding a water bill in the amount of \$1,250 that he paid it under protest in hopes that the Town Board might also consider some favorable action.
- ❑ Resolution from the Adirondack Park Local Government Review Board dealing with ATVs on State land. They are requesting the Town Board's concurrence and support of a similar or identical resolution to be sent to our elected officials in Albany.
- ❑ E-mail from Bill Morehouse regarding Christmas decorations and encouraging the reinstating of the Town's past practice of giving awards for the best decorations.
- ❑ E-mail from Becky Coon regarding the Town's current policy of paying for vacation time on various employees.
- ❑ Letter to Herb Koster, Chairman of the PB, from Dave Saidel in opposition to the McGurls' proposed 17-lot subdivision on Trout Lake.
- ❑ Letter to Herb Koster, Chairman of the PB, from Rochelle Saidel in opposition to the McGurls' proposed 17-lot subdivision on Trout Lake.

- Letter to Herb Koster, Chairman of the PB, from Robert and Lois Schielke in opposition to the McGurls' proposed 17-lot subdivision on Trout Lake.
- Correspondence from the APA, that they have conditionally approved the project for the Santos/Masters development on Wall St. for a four-lot subdivision involving wetlands—one single-family dwelling and three proposed single-family dwellings.
- Correspondence from DEC regarding the November 1, 2005 sewer treatment plant inspection. The Town received a very satisfactory rating.
- Correspondence from DEC that last month the Town had high readings of nitrogen for two nights in two wells.
- Correspondence from Carl Schoder regarding the New Vermont Road culvert replacement change order. Copies were distributed to Town Board Members.
- Letter from Mike Calautti regarding the great job with the C&D ramp and that our employees are doing a great job.
- Various correspondences from DEC regarding the application of the C&D project.
- Correspondence from Time Warner Cable regarding the monthly rates for packages and premium services increasing on January 1, 2006 and the basic and standard rates remaining stable at this time.
- Correspondence from Time Warner Cable regarding the corporate change for Time Warner Cable.
- Correspondence from Lake George Park Commission on the notice of availability for review of the West Brook Stormwater Facility at the former Gaslight Village/Charley's Saloon property.
- Correspondence from Glen Waehner expressing concerns with the Checci property.
- Request from Stephen Breault of the Highway Department for two weeks vacation time which he will be unable to use.
- Request from Glen Ryder to be paid for 64 hours of vacation time he will not be able to use before the first of the year.
- E-mail from Fred Ormsby regarding concerns with a sewer back-up problem in Conger's Point.
- Notification that the Town of Bolton has been served in the suit of Agnes Nolan versus Emily Smith and the Town has been requested to be compelled as a necessary party to that suit.
- Resolution from Adirondack Association of Towns and Villages in support of ATVs role as the co-applicant to the Adirondack Park Regional Assessment Project, where the AATV is requesting a study be done on the amount of State lands within the various townships and the impacts on the ecology and economy throughout. They propose a study in the amount of \$120,000.
- Correspondence from Counsel Michael Muller on water district billing.
- Correspondence to Greg Smith, ZBA Chairman, from Lake George Association dealing with the individual applications of DePace, Steve Byers (retaining wall) and Tom McGurl (proposed 17-lot subdivision).
- Correspondence to Mitzi Nittmann, Code Enforcement Officer, from John Yattaw regarding an alleged violation of the Zoning Ordinance on Thunderbird Road.
- Beginning correspondence between the Water District of the Town and NYSDOH about changing the chemicals used to control the corrosion inside the pipes.
- Correspondence regarding the Town's proposed insurance policies.

- Correspondence from Lake George Association regarding navigational markers on Lake George.
- E-mail from Bateau Below regarding inclusion in a feature DVD documentary.
- Correspondence from the Association of Towns and Villages regarding various workshops, meetings and televised conferences for those just elected—the next one being held on December 12, 2005.
- Correspondence from DEC Region 5 Fish and Wildlife Management Board.
- Correspondence from Cornell Cooperative Extension.
- Correspondence from the Power Partnership and the Municipal Gas and Electric Alliance regarding utility fundings.
- Correspondence from Senator Betty Little on shared municipal services interactive grant program.
- Correspondence from the Preservationists.
- Correspondence from Adirondack Community College.

-  
-  
-  
-

Reports:

Councilman White:

ASSESSOR:

The Assessor's Office is in the processing mode—doing daily creating and modifying computer file for the use in the 2006 assessment roll. Sales and sales ratios are monitored to help the uniform level of assessment and eventually the equalization rate. During November they have inspected sales properties and new homes. On November 14<sup>th</sup>, the Town's file was downloaded and sent to the County to be used as a base for the 2006 tax roll. Litigation with Rainbow Beach is ongoing.

WATER DEPT:

Water made: 5,340,858 gals Daily average: 178,028 gals. Currently, the pond level is over the spillway due to heavy rainfall and snow. John has been in contact with NYSDOH regarding chemicals used for corrosion control.

POLICE DEPT:

Hours officers worked: White – 73.5, Howse – 75.0, Schroeder – 45.0. Miles patrolled: 1,144 miles. Fuel used: 107.4 gals. Officers investigated 3 criminal reports, 2 assists to motorists, 3 assists to other agencies, 4 security alarms, 10 uniform traffic summonses, 1 auto accident, 4 court securities, 2 emergency medical assists, 2 fire department assists, and 7 misc. complaints.

JUSTICE COURT:

A/R: Judge Harry Demarest - \$3,545. Judge Edward Stewart - \$3,885. Total: \$7,430. There is an itemized list located in the court breaking down the amounts.

Councilman Saris:

TOWN CLERK'S OFFICE:

- Total Local Shares Remitted: \$8,735.63. Non-local Revenues: \$359.27.  
Total State, Local and County Revenues: \$9,094.90.

SEWER DEPT:

- The Plant took in 6,448,910 gals of wastewater for a daily average of 214,963.4 gals.

The Sewer Department has been working with Severn Trent in cleaning the sewer lines and filming the sewer main—it is in better shape than anticipated, but they will have to go back and cut roots found in the lines. Chet Dagles feels that a lot of the I&I is coming from the sump pumps and footing drains that have been installed into the Town sewer lines which are not appropriate and should be addressed. The manhole at Conger's Point is in bad shape, they did emergency repair on it, but it will need to be resealed this spring—it is estimated to last less than a year. Chet Dagles reported the new roof is on the shed and he is pleased with the job Greg Bonath did.

-  
HIGHWAY DEPARTMENT:

- No report.

-  
Councilman Andersen:

PLANNING OFFICE:

- Permits applied for: 14 certificates of compliance / 5 septic permits / 8 variances / 5 site plan reviews / 2 subdivisions / 7 stormwater permits. A/R: \$2,254.15.

CODE ENFORCEMENT:

- 33 site visits / 39 page report filed with numerous letters regarding requirements, numerous pictures, septic issues, violations, stormwater investigations, etc. Councilman Andersen said that it is important to note that this report every month is very comprehensive and shows the amount of work that department is actually involved in.

RECREATION DEPT:

- No report.

Councilman Andersen noted that the Rec. Dept. has numerous activities every month, a calendar is available, and it is a great program that has been doing very well and continues to grow.

BUILDINGS & GROUNDS DEPT:

- No report.

Councilman MacEwan

TRANSFER STATION:

- No report.

Councilman MacEwan said the C&D Ramp has been installed, a nice job was done and it looks nice up there. The paving will probably be completed in the spring.

ANIMAL CONTROL:

- No loose dogs or complaints

SUPERVISOR:

- Total receipts: \$391,570.78. Total disbursements: \$766,311.62.
- Regarding stormwater, Supervisor Gabriels mentioned Finkle Brook and the chloride situation addressed by John Gaddy earlier in the meeting.
- Warren County: nothing to report.

Unfinished Business:

The outstanding contract between the Town and the Sagamore Resort for the emergency pump station on the Island has not been signed yet. Counsel said that the contract has been sent to their attorney for review. Their attorney has forwarded the contract to his client. Our Counsel has not received any indication if the Sagamore will enter into the contract with the Town. The Town will technically have no contract as of 12/31/05. Counsel will continue to call Atty. Pratt on this matter.

We have the proposed bed tax contract, including Schedule A from Warren County with regards to the disbursements of funds. Counsel said he saw the contract and he asked the Town Board to review the language on how the Town would like to spend the funds and it says the Town would have to go to a special committee at the County for any requests. Supervisor Gabriels said yes, there is the Warren County Occupancy Tax Committee. Counsel said that is a contract he was expecting to see and as long as the Town is willing to fulfill those procedures year after year, then it is a contract that deserves consideration for signature.

RESOLUTION #250

Councilman Andersen moved, seconded by Councilman Saris to authorize the Town Supervisor to proceed with signing the proposed contract with Warren County, which includes Schedule A for disbursement of the Warren County Occupancy Tax. All favorable. Motion carried.

Water rates

Supervisor Gabriels said that the water charges are currently billed in some cases on tax map numbers and not on principal structures on the property. Counsel said it is not easy, as the Town has so many combinations of how the Town bills a water customer, that doesn't actually constitute a system. Town Board Members were in agreement that a workshop is needed.

Regarding the NYSDEC grant for the 1996 Clean Water/Clean Air Bond Act for Nonagricultural Nonpoint Source Projects, Supervisor Gabriels said the NYSDEC is requesting the current Town Supervisor have his name on the contract for legal purposes.

RESOLUTION #251

Councilman Andersen moved seconded by Councilman Saris to authorize Supervisor Gabriels to sign the NYSDEC grant for the 1996 Clean Water/Clean Air Bond Act for Nonagricultural Nonpoint Source Projects. All favorable. Motion carried.

Thomas and Heidi Lemaire Alternative Remedy

Supervisor Gabriels said the Lemaires have failed to pay the \$1000 civil penalty per Resolution #176 of August 2, 2005 by the deadline date of November 30, 2005 and asked what the Town Board's options are.

Counsel said that the Town Board could send a letter to the Lemaires stating they are past due and requiring payment within a specified time. If it were not paid by that date, the Town would take appropriate action to bring enforcement on the civil penalty, which would then include a proceeding in justice court to sue upon the administrative determination seeking the \$1000 civil judgment. If the Lemaires do not voluntarily pay then it would constitute a judgment lien on the Lemaire's real estate that would be good for 10 years and renewable for an additional 10 years and would run at 9% interest per annum if it took them a lot of time to pay it. That would be the simplified version on how to best enforce the \$1000 obligation.

The question was asked if any correspondence has been received from the Lemaires regarding this matter and everyone answered no. Counsel said he feels the best way is to temper it with a little bit of patience, but there is a certainty that the Town Board should give him (Counsel) instruction to send the collection letter including a deadline for payment. Councilman Andersen asked if 30 days for payment would be a normal amount of time and Counsel said that would be a lot of time—he feels 10 days is okay and if there is communication from the Lemaires on this item, then the Town Board can inform Counsel on how to proceed.

#### RESOLUTION #252

Councilman Andersen moved seconded by Councilman Saris to authorize Counsel to send a letter to the Lemaires giving them ten days to bring their property into compliance, and if we receive no answer we will proceed with enforcement. All favorable. Motion carried.

Pending Items: There was no action on pending items.

Board of Health/Water Commissioners: None

#### Referrals from Code Enforcement Officer / ZBA / BPB:

Marilyn Randall, 168 Homer Point Road (TMN – 186.15-1-41), erection of a chain link fence (structure) without a building permit, Marilyn Randall said that she didn't realize a portable exercise pen for her 2-4 Boston Terrier dogs needed a permit. She looked into other options, speaking with several fencing companies and decided to go with the green vinyl coated fence. She located it in the area furthest from her neighbors and over her own septic system. She will do plantings around the pen to lessen its effect, and submitted an application for a certificate of compliance this past Friday.

Councilman Andersen asked if it is portable and free standing and Marilyn Randall said yes. Mr. Randall said the fencing companies told them they didn't need a permit—it they did; they would have applied for one. The question was asked as to the size of it and Marilyn Randall said it is 20' x 30' and 5' high.

Councilman MacEwan asked if this could be called a structure and Counsel answered by saying that it is a close question, as a fence is in the Code definition as a structure and until he heard this

presentation, he was under the impression that this was a typical chain link fence. This sounds like a dog pen. Kathy Simmes asked if it is a dog pen and Mr. Randall said yes, it is a place for the dogs to run without being affected by other dogs in the neighborhood that may not be on leashes. Counsel asked if this is portable and could be relocated anywhere on the property and Mr. Randall said yes.

Counsel said that he is comfortable telling the board that a fence, per the Code, is a structure, but he is not comfortable telling the board that this is a fence. Several Town Board members agreed. Mr. Randall said they got the green vinyl to have it blend into the woods. They use galvanized fencing at their kennel in Maryland. Councilman White asked if there is information as to why M. Nittmann was called to this situation and Supervisor Gabriels said he had no information on that.

Supervisor Gabriels asked if the Randalls submitted their application for a building permit and Marilyn Randall said yes, last Friday, but they haven't heard anything back yet. Councilman White said he thinks this item should be tabled for an interpretation. Counsel said yes, it is an interpretation issue, which would probably be done by the ZBA. Supervisor Gabriels asked how the item gets to the ZBA and Counsel said that the Randalls could ask the ZBA for a zoning interpretation in that she respectfully disagrees with the present interpretation. The Zoning Office has made the determination that this is a chain link fence even though it is not attached to the ground. The ZBA would hear the matter and make a determination.

#### RESOLUTION #253

Councilman MacEwan moved, seconded by Councilman White to table a decision concerning an alternative remedy for Tax Map #186.15-1-41, 168 Homer Point Road, property owned by Marilyn Randall, pending her attendance at the Zoning Board of Appeals meeting for an interpretation of their fence. All favorable. Motion carried.

#### Rivers/Stevenson/Morehouse

89 Cotton Point Road Cabin #13 (TMN – 200.14-1-2), continuation of a non-conforming structure – raised cabin and extended roofline. Craig Rivers gave an overview and history of the property. No dwellings are shown on the tax maps because they are considered temporary dwellings and have no bathrooms. He owns the land and the individuals own the structures. He only operates the campground from May 16<sup>th</sup> through October 1<sup>st</sup>. When Mr. Stevenson wanted to fix his cabin I suggested that he go to the Town to see what would be required if he wanted to rebuild the cottage in any way.

Supervisor Gabriels asked if a permit would have been required. Counsel said yes a permit would have been required. He has been provided with the lease and it is true that there is an owner of the land and the ownership of that improvement that is sort of attached to the land is defined by the terms of the agreement understood to be personal property. It is a structure as far as the Code is concerned and the responsibility of at least the lessee or owner and would require compliance with the Code.

Supervisor Gabriels asked if that obligation would also attach to Mr. Rivers, the owner of the land underneath the cabin. Counsel said that by the terms of the lease agreement by the two

parties, no. It has been assigned that between these private parties the responsibility is to the lessee (tenant). When presented with the facts he did advise M. Nittmann that all possible participants and necessary parties needed to be put on notice—the owner, the lessee and the contractor, that they are not unilaterally excluding an important player. It is up to the Town Board to review the facts and determine who is responsible. The lease does have an expectation that the lessee or tenant is responsible for home compliance and this thing is practically deemed personal property as if it were not affixed to the land.

Councilman Saris said that the lease is a contract between two individuals that has nothing to do with the Ordinance and Counsel said that is correct. Councilman Saris asked who is responsible for compliance in the eyes of the Ordinance and Counsel answered by saying all of those parties that have been named—the owner, the party who owns the thing that has been constructed, and the contractor who constructs it without a permit—which is why they have all been named and notified, and the Town Board may find the culpability is equal, different, etc., but the Code permits the Town Board to fine all three. Councilman Saris said that he doesn't think in the past they have had a lessee/landlord situation. Most of them have involved contractors and the penalties and need for compliance have always been to the property owner—they have never done anything with the contractor.

Counsel said that he is not encouraging the Town Board; he is just giving an example. If for instance, The Grove on Lake George LLC had constructed without a permit and indeed it was, and a permit is required and indeed it should be, then if the Town Board made such a finding, The Grove on Lake George LLC simply by virtue of the terms of this lease is indemnified by the actions taken by the tenant, who has agreed in signing the lease acknowledges responsibility in getting all required permits. Although the Town Board has made a finding and it is in some respects upon the statutory liability, the owner of the land would then seek recovery from the tenant—which is the principle of indemnity.

Supervisor Gabriels asked for the total number of non-permanent structures in the Grove and Mr. Rivers said 19. Supervisor Gabriels said that he knows the area well and is trying to anticipate future situations.

Counsel asked if The Grove on Lake George LLC gets one tax bill and Mr. Rivers said yes. Counsel asked if it is correct that the other structures are not shown and Mr. Rivers said his cottage is the only one shown on the tax map. His taxes were recently increased after Town Assessor, Dave Rosebrook reassessed the property. Counsel said the 19 other structures may be included in the assessed value, but the lessees aren't getting a separate bill.

Councilman Saris said it seems to be two issues: one that it was done without a permit and the other that it was expanded and it requires a variance. He asked who is responsible in getting the variance. Counsel said that according to the lease between the parties, the tenant or lessee bears all responsibility of Code Compliance or noncompliance. Councilman Saris said that is between them and asked if the ordinance cares as to who gets the variance. Counsel said no, the ordinance doesn't really make a distinction if a person has a beneficial interest in the property—they'd be a proper applicant and in this case, if they were correct on this Mr. Stevenson being the lessee, he'd be a proper applicant.

Counsel asked where the setbacks are in relation to needing a variance and Councilman Saris said it is a pre-existing non-conforming, so they don't really care where the setbacks are—it is grandfathered in for that, but you can't expand it. Counsel said that is right, it cannot be expanded. Councilman Saris said it has been expanded, so there is a need for a variance, which doesn't affect the setbacks, because it doesn't appear that the expansion further violated any setbacks. Counsel said in the purest sense, the Town Board now has a Code section that says any expansion of non-conformity requires a variance, and it also needs a building permit.

Councilman Saris said he feels it would seem appropriate that the action is consistent and whoever is going to be required to get the variance is the same person that would be responsible for the other violation in building it without the permit. Counsel said that the Town Board has the authority to make the choice as to who is the party that is assignable to the responsible aspects of not only if there is a civil penalty, but who is supposed to do something to get it into compliance.

Supervisor Gabriels asked if there is any reason Mr. Stevenson is not in attendance and Mr. Rivers said other than that he is from Westchester County, no. He was aware of the meeting, but said he couldn't make it up. Councilman White asked if Mr. Stevenson entered into contract with Mr. Morehouse. Mr. Rivers said that is correct and that there was no contract between himself and Mr. Morehouse.

Councilman White asked if any of the structures have water or septic and Mr. Rivers said no, just water and a sink. Toilets, which are DOH inspected every year, are provided in a separate building. Supervisor Gabriels asked if it is a community water system or if it is separate wells. Mr. Rivers said it is a one tap above ground system that distributes water.

Councilman Andersen said he feels the Town Board needs to speak to Mr. Stevenson. Councilman Saris said he doesn't feel the Town Board needs to speak to Mr. Stevenson, but he does feel that the action of compliance effort would be directed towards him, since he is clearly the one who violated it, so it seems he would be the one who needs to go to the Zoning Board, especially since Mr. Rivers suggested Mr. Stevenson should check to see if a permit was required. Councilman White agreed. Counsel said that although Mr. Rivers states tonight that he made the suggestion and that is all well and good and should for any reason Mr. Stevenson respectfully disagree, it is in the lease, so the contract obliges Mr. Stevenson to do it. Supervisor Gabriels asked if the Town Board has within its authority to rely upon the lease between Mr. Stevenson and Mr. Rivers and Counsel said yes.

#### RESOLUTION #254

Councilman Saris moved, seconded by Councilman Andersen to impose a civil penalty in the amount of \$1000 to Mr. Stevenson for Cabin #13, the lessee of property owned by The Grove LLC, Tax Map #200.14-1-2. Fine to be paid and the property to be brought into compliance within 30 days of receipt of letter sent by Code Enforcement Officer. All favorable. Motion carried.

9 Rose Lane, Checci property

Refer to Resolution #241 November TB meeting— possible civil penalty and deadline compliance date. Frank McDonald said that they started demolition last Thursday—it was completed yesterday, the contractors for the dormers showed up yesterday, the materials were delivered today and they started reconstruction.

Supervisor Gabriels asked if the interior of the home is exposed to the weather. Frank McDonald said that the second floor is exposed. It is difficult to get on the roof with the weather we've had in the last couple of weeks, but all the demolition is complete and the lumber removed and the new lumber is on site and has begun to be installed as of this morning. Supervisor Gabriels said that being exposed to the weather gives Frank McDonald an added incentive to close it in quickly.

Supervisor Gabriels said that they have seen the beginning of compliance without establishing a formal deadline date at this point and a civil penalty has not been imposed for the 17-18 months and added that this was one of the first of the alternative remedies to come before the Town Board and the Town Board did not assign a civil penalty or deadline at that time. The Town Board has corrected those two mistakes in dealing with others.

Councilman Andersen said that at some point, even though he feels Frank McDonald will follow through with it, he feels the Town Board needs to put a date for completion of the initial plans. Councilman Saris said he doesn't see any harm in it, but feels the real motivation now is the weather. Councilman White asked what the estimated completion date is and Councilman Andersen asked if 45 days is ample. Frank McDonald said that 45 days would be generous. Councilman Andersen said he feels there needs to be an end date on it.

Councilman White asked if it would be out of line to put a stipulation that if it weren't completed in a certain time, then they would impose a civil penalty. Counsel said yes, the Town Board could make it contingent on that—sort of a suspended penalty. Councilman White said he thinks that would give motivation to complete the project.

#### RESOLUTION #255

Councilman White moved seconded by Councilman Andersen to allow The Frank & Sandra Checci property, 9 Rose Lane tax map #157.05-1-10 to complete the reconstruction of the dormers within a 45-day period or a civil penalty in the amount of \$1000 will be levied. The Code Enforcement Officer is to verify if the project is completed within that timeframe. All favorable. Motion carried.

#### *New Business:*

Regarding the public hearing for proposed Local Law No. 1-2005 Authorizing Contributions To And Contracts With Local Development Corporation, Supervisor Gabriels asked again for Town Board member or public comment. There were no comments.

#### RESOLUTION #256

Councilman Saris moved, seconded by Councilman MacEwan to close the public hearing on proposed Local Law No. 1-2005 Authorizing Contributions To And Contracts With Local Development Corporation. All favorable. Motion carried.

RESOLUTION #257

Councilman Saris moved, seconded by Councilman Andersen to adopt Local Law No. 1-2005 Authorizing Contributions To And Contracts With Local Development Corporation. All favorable. Motion carried.

Selective Insurance contract for 12/07/05 – 12/06/06

All Town Board members reviewed the contract in the original amount of \$73,639.81. Supervisor Gabriels said there were some slight changes to that proposed contract. The addition of two dugouts at the recreation field at \$1000 each, two or three vehicle values were lowered, and the Town would pick up the premium for the purpose of private cars on Town business. Councilman Saris said that for members that use their personal vehicles on job-related items, their insurance would be first, but the Town would have a supplemental, so that if anyone is using a vehicle that for instance doesn't carry collision and they damage it on Town business, the Town would have a policy that would cover it and the cost of that coverage is only \$250. Supervisor Gabriels said that Dave Stotler did make the revisions, but did not provide a revised premium.

RESOLUTION #258

Councilman Saris moved, seconded by Councilman White to authorize accepting the Selective Insurance contract for 12/07/05 through 12/06/06 for a premium of approximately \$73,689.81 (and no greater than \$1000 above that figure for the additional insurance). All favorable. Motion carried.

Regarding the notice that the Town of Bolton has been named in a notice to compel necessary party action of Agnes Nolan versus Emily Smith, et al. NY Supreme Court #47039 on November 17, 2005, Supervisor Gabriels said the Town Board needs to authorize Town Counsel to appear on behalf of the Town in defending the Town's right and its property rights as they may be defined in that particular case at a fee of \$150 per hour itemized.

RESOLUTION #259

Councilman Andersen moved, seconded by Councilman MacEwan to authorize Town Counsel Michael Muller to appear on behalf of the Town at a fee of \$150 per hour itemized for Agnes Nolan versus Emily Smith, et al. NY Supreme Court #47039. All favorable. Motion carried.

Regarding the New Vermont Road culvert replacement, Supervisor Gabriels said he distributed a copy of the Change Order #1 in the amount of \$1,748.99, which was reviewed by Carl Schoder of Schoder River Associates, who recommended the Town approve and pay Change Order #1.

RESOLUTION #260

Councilman Andersen moved seconded by Councilman Saris to authorize the approval and payment of Change Order #1 to Gallo Construction in the amount of \$1,748.99 for the New Vermont Road culvert replacement based on Mr. Schoder's recommendation. All favorable. Motion carried.

-  
Lake George Village's proposed new Visitor's Center

Supervisor Gabriels said that Mayor Blais has suggested, encouraged and asked Bolton to participate. The special Warren County Occupancy Tax Committee has approved that this is an acceptable use of Bolton's share of the Bed Tax money as it is promotional—not for brochures—but more of the history, culture and the flavor of Bolton. The estimated prices for a permanent display would be a one-time charge in the range of \$5000 to \$8000. He has asked Bill Gates to be the Town's representative on future meetings. This issue has not been brought before the Bolton Bed Tax Committee, but the Town Board has the authority to dole out the Bed Tax money on its own accord without necessarily seeking the support of the Bolton Bed Tax Committee.

Councilman Andersen asked if this is something Mayor Blais needs an answer on right away and Supervisor Gabriels said yes. Councilman White asked if any other communities other than Bolton are involved and Supervisor Gabriels said yes. He was told the issue has been opened up to all 13 communities and he is not sure how much space is available.

Councilman White asked if each community is financially equally represented and Supervisor Gabriels said everybody gets the same display area. Karen Johnson who worked on the Lakes to Locks Program, is coordinating the display area. Councilman White asked if any other towns have agreed to participate and Supervisor Gabriels said that he thinks other towns have.

Councilman Andersen said that is the new center that would be in the heart of Lake George Village. He feels that if the Mayor needs an answer he would sure hate to have Lake George have a new Visitor's Center and Bolton Landing not be included. He thinks it is important to have Bolton represented there. Councilman White asked if the Town would be responsible for the display and asked where the money would be going. Supervisor Gabriels said no, the Town of Bolton is not going to construct the display and he believes the money would provide the funds to Karen Johnson to work on a uniform presentation of displays among all of the towns.

#### RESOLUTION #261

Councilman Andersen moved seconded by Councilman MacEwan for Bolton to participate in the new Lake George Village Visitor's Center by paying a one-time cost ranging from \$5000 to \$8000, funds to come from the Bolton Bed Tax money. All favorable. Motion carried.

#### Bolton Bed Tax for 2005

Supervisor Gabriels said the Bolton Chamber of Commerce has requested expenditures from the Bolton Bed Tax money.

Councilman White suggested the Town consider using Bed Tax money to improve the docks so they are up to standards for the larger boats to continue to use it. Supervisor Gabriels said the question of Bed Tax money and capital improvements is an ongoing one of dispute and has not been firmly decided one way or another by the Warren County Bed Tax Committee. Not only is the dock reported as being in disrepair but the stone wall leading to the pier also needs to be repaired at some unknown cost that is being determined by Carl Schoder. Last year the Town received \$113,000 in bed tax money and the Town used \$75,000 as a grant to the BLDC leaving the balance of \$38,000 of which about \$5000 currently remains.

Councilman White asked if the Town could get an interpretation if the Bed Tax money can be used for that purpose because it would help alleviate the cost to the Town. Supervisor Gabriels said that he would ask that question.

Supervisor Gabriels asked if the Town Board would like to consider the BCC's proposed Lumberjack day request for the use of Bed Tax money for that event and Councilman Saris said yes. He thinks it needs to be kept in mind that the Chamber is made up of the people who collect this tax. Supervisor Gabriels said that the Warren County Tourism people are very supportive of the Fire Chief's Program and are spending all kinds of County Bed Tax money for this and he thinks it is a grand idea.

#### RESOLUTION #262

Councilman Saris moved, seconded by Councilman Andersen for the Town to encourage the Bolton Chamber of Commerce to enter into negotiations with the Lumberjack Day representatives using Bolton Bed Tax money in an amount not to exceed \$8000. All favorable. Motion carried.

Discussion and resolution of paying bills on abstracts prior to Town Board approval. Supervisor Gabriels said that certain bills come up on a periodic basis (National Grid, Warren County DPW, gas bills an/or bonded contract projects, and there is question if the Town Board is comfortable with these bills being paid in mid-month without necessarily getting the abstract approved by the Town Board. This would not include change orders or payment of any of retainage figures.

Donna Boggs said the Town pays National Grid because the due date doesn't correspond with the abstract and if they aren't paid late fees would occur. Kathy Simmes said she thinks the Town has the authority to pay bills out of abstract so it we don't incur late fees and Counsel said that is correct. The Town is then confirming what it routinely pays as recurring bills or previously approved bills such as a contract. Supervisor Gabriels said that this is not an attempt to circumvent any auditing review process or to allow these bills to just run willy nilly away. Donna Boggs said that the DPW bill was only paid because it comes in just after the Town Board meeting, so it would be overdue if it weren't paid. Supervisor Gabriels said that the Town has always paid these bills out of abstract and Kathy Simmes agreed that is the way it has been done since she has worked as Town Clerk.

#### RESOLUTION #263

Councilman Saris moved, seconded by Councilman MacEwan to adopt the policy of following past practice in regards to payment of mid abstract bills. All favorable. Motion carried.

Regarding Stephen Breault's request for two weeks (80 hours) vacation time, which he will not be able to use. Supervisor Gabriels said it has been Town Board practice to grant these requests with very little review and that there is a policy that was adopted in the Town Board's organizational meeting where Resolution # 9 says that no accrual or carry over of vacation time to the following year will be permitted unless there are unusual circumstances and the Town Board approves the extension.

Councilman Andersen said the Supervisor's first comment on past practice kind of makes it hard not to approve the request, but next year he would like discussion on making the policy be that vacation is there and either use it or lose it. Councilman Saris asked if the union can accrue and roll over time more than non-union employees can and Supervisor Gabriels said that union employees can carry over up to 240 hours as stated in Article 9, Section 6. Councilman Saris said it is a slightly different situation than lose it and Councilman Andersen agreed saying that Stephen Breault is not losing anything—it is just a matter of using it in calendar year 2005 versus calendar year 2006.

Supervisor Gabriels said this poses the question of the purpose and value of vacation time and the value of no vacation time to the Town for that work that gentleman would perform for the Town for two weeks. Councilman White said that he thinks the Town should set a precedent and he suggests the Town Board pay for these two requests, but the policy should be reviewed for future decisions. Councilman Andersen said there ought to be a letter that the Town Board is not even going to consider requests like this until all of the employee's time is accrued—and consider it, not necessarily pay it. Supervisor Gabriels asked what that gains if vacation is accrued and Councilman Andersen said that sometimes if you are not at work you come back with a little different mind set, which is the purpose of a vacation in the first place.

Councilman Saris said the point is that a year from now you don't end up in the same place with everyone with the maximum accrued vacation time, but that doesn't mean policy can't be created saying no, request denied, but that really is what it all comes down to.

Supervisor Gabriels said he doesn't have a good feel for this as it applies to the union and aside for some positions for other non-union employees, there are certain positions—those dealing specifically with lots of funds (Supervisor, Deputy Supervisor, Town Clerk and Town Bookkeeper) for those people it is important for the integrity of the Town that they go on vacation for a certain period of time. The theory behind that is, not that he is worried about it, but the theory is that if there is something funny going on there are two weeks of vacation time to figure out what is happening. Kathy Simmes said that is true—auditors say that people who work with money all the time and don't take a vacation are the ones the auditors will look at first if something is going on.

Councilman Saris said it deserves more investigation. If people aren't able to use the vacation time the Town is giving them, quite frankly, maybe the Town has too much work to get done. Maybe if they are conscientious people they are uncomfortable taking the time off because the work doesn't get done. That is not a fair situation to put employees in, and he can come up with a number of different scenarios for this situation and he doesn't know which one happens to be the case. The Town should really look into it and try to determine whether or not the Town has some inherent problems in its staffing and scheduling that are creating a situation where people can't use their vacation time or if it's another situation and something else is going on causing this before the Town adopts a policy. The whole thing should be reviewed and investigated.

Supervisor Gabriels asked how the Town would go about seeing if it is overtaxing the departments. Councilman Saris said he suggests the Town start with interviewing the people and their supervisors to find out what the reasons are for these requests.

Jim Casaccio disclosed his experience in this area and said the Town needs to hold the supervisors accountable for making a vacation schedule. If the Town ends up with too much vacation or a supervisor doesn't have enough people to staff then the Town has a problem to look at. He thinks it would be a great idea for the Town to implement a timekeeping system, and he is willing to assist in setting up such a program.

Supervisor Gabriels asked for details on a time clock system. Jim Casaccio said he is not sure of the Town's current communication system between all of its buildings, but they can run from \$10,000 up to \$200,000 depending on what you want. The time keeping systems have the ability to track expenses for different tasks, the ability to track all types of time taken, so time is not used inappropriately and it has the ability to forecast expenses. Supervisor Gabriels asked if this would make it easier or more complicated for the Town Bookkeeper and Jim Casaccio said much easier.

Councilman White said the use of time clocks requires a degree of accountability and he thinks it is a good idea from an insurance point of view. Jim Casaccio said that after doing it for years, he's found the 95%/5% rule where 95% of the people are okay with, but the 5% take advantage of the situation are the ones that complain.

Councilman White asked if Jim Casaccio could provide the Town Board with some agency contacts for them to approach on the subject. Jim Casaccio said yes, and again offered to help out. Supervisor Gabriels said the Town might need to look into inter-departmental communication also.

Supervisor Gabriels said that time clocks often convey a sense of distrust between management and the employees and Jim Casaccio said that isn't the case. It is a way to save money on paperwork and accuracy. Councilman Saris said the Town has an obligation to the taxpayers that their tax monies are being accounted for and this gives the Town a way of tracking that. He thinks the Town has an obligation to its employees to see that they get paid properly, and it also helps the Town understand the Labor Laws that govern the way the employees are supposed to operate. Councilman White said it is currently difficult to prove accountability and a clock system would help with that. Supervisor Gabriels said that Warren County is looking to upgrade their current system. Jim Casaccio said it is not easy to put a timekeeping system in, but once it is in and up and running the people who are doing what they are supposed to be doing will be happy and the people that will be screaming will be the people who are taking advantage of the Town. Supervisor Gabriels said that it is a complicated process, but the Town Board welcomes some insight as to what type of system would be appropriate for the Town of Bolton for now and for the next 10-15 years.

Councilman White asked the Town Board's feeling on approving a resolution to approve the policy of going to a time clock system or at least approving the theory of using a time clock system with the type of system and installation to be determined at a later date. Councilman Saris asked if some sort of timeframe for implementation should be addressed and Councilman White asked what an appropriate timeframe would be. Jim Casaccio said that 120 days would be enough time for vendors to come in to make presentations to the Town Board, but not enough

time to have a system installed and running, and suggested the Town Board check the State contract first as that is where the best pricing would be. Further discussion ensued on timeframes for implementation and system options including biometrics. Counsel said there would need to be a policy on procedure put into place for this system.

#### RESOLUTION #264

Councilman White moved seconded by Councilman Andersen for the Town Board to implement the use of a time clock system. The specific system will be based upon research and approval by the Town, and to be functional in 180 days. All favorable. Motion carried.

In addition to Stephen Breault's request, Supervisor Gabriels said that Glen Ryder is requesting to be paid for 64 hours of vacation time he will be unable to use.

#### RESOLUTION #265

Councilman White moved, seconded by Councilman MacEwan based on past practice, to authorize payment of Stephen Breault's 80 hours and Glen Ryder's 64 hours of vacation time pay. All favorable. Motion carried.

#### Health Insurance Plan for Highway

Supervisor Gabriels said the plan was signed, everybody has been informed, and it went into effect December 1, 2005. The Union Rep. requested the Town Board consider changing one particular provision of the current union contract which is due to expire at the end of 2006, dealing with the buyout from the union from the Health Insurance Plan where the Town now contracts to pay a person \$600 for not using the Town's insurance, and it was suggested the Town increase that to \$1200 so it is identical with the non-union provision that the Town has adopted as a policy at its Organizational Meeting.

Councilmen Saris and White agreed that the Town Board should leave the contract as is until the Union contract is up for renegotiation. Councilman Saris said he doesn't see why the Town Board should renegotiate the contract piece by piece when it will have to sit down and renegotiate the whole thing again anyway.

Supervisor Gabriels said that the only counterpoint he would raise to this is that there is a cost savings to the Town, which far exceeds either the \$600 or \$1200 with the buyout provision. The Town saves a considerable amount of money by not having employees on the Town's insurance. The Town Board's consensus was to table this item until 2006 contract negotiations.

Regarding the Town's payment of \$7000 to the Watershed Conference, Supervisor Gabriels said the payment needs to be authorized, as it is a budgeted item from the engineering account.

#### RESOLUTION #266

Councilman Andersen moved seconded by Councilman Saris to authorize payment of \$7000 to the Lake George Watershed Conference. All favorable. Motion carried.

Insurance workshop with David Stotler

Supervisor Gabriels said a workshop needs to be set to discuss Property Liability Insurance renewals.

**RESOLUTION #267**

Councilman MacEwan moved, seconded by Councilman White to schedule a workshop with Dave Stotler for Tuesday, December 27, 2005 from 8:30-9:00 am to discuss Property Liability Insurance renewals. All favorable. Motion carried.

**RESOLUTION #268**

Councilman Saris moved, seconded by Councilman Andersen to schedule the Town Board end of year meeting for Tuesday, December 27, 2005 at 8:00 am. All favorable. Motion carried.

Budget transfers

Donna Boggs presented the following budget transfers to the Town Board for authorization.

**TRANSFERS FOR DECEMBER 6, 2005**

	FROM	TO	AMOUNT
<b>GENERAL FUND</b>			
10104 Town Board		12204 Supervisor	\$113.00
19904 Contingency		13304 Tax Collection	332.00
19904 Contingency		13404 Budget	50.00
19104 Insurance		13404 Budget	14.00
19904 Contingency		19504 Water & Sewer Billing	648.00
31202 Police Equip		31204 Police Contractual	500.00
51322 Garage Equip		51324 Garage Contractual	3,800.00
90108 Retirement		71104 Parks Contractual	1,018.00
71402 Playgrounds Equip	71401 Playgrounds Cont.		2,000.00
<u>Increase budget:</u>			
Cons. Park		71504 Cons. Park Cont.	28.00

Bond Anticipation Note	81602 Landfill Equipment	130,000.00
16201 Buildings & Grounds Payroll		12,000.00
71101 Parks Payroll	1018.00	
Revenues	5730 Bond Anticipation Note	130,000.00
	3005Mortgage Tax	15,000.00

**HIGHWAY DEPARTMENT**

51484 Services	51304 Machinery	9,064.00
90108 Retirement	97306 Bond Principal	458.00

**WATER DISTRICT**

83304 Purification	83404 Transmission	1,313.00
90558 Disability	90108 Retirement	131.00

**RESOLUTION #269**

Councilman Saris moved, seconded by Councilman Andersen, to authorize the Budget Transfers provided by Donna Boggs. All favorable. Motion carried.

Public in Attendance: None

Other Business:

Councilman White thanked Town Board Members for their continued support over the past four years that he has served on the Town Board. It has been a very pleasurable and positive experience and encouraged new 2006 Board Member, Owen Maranville (who was in attendance) to become as active as he can quickly because it is an important job. Mr. White appreciated that many meetings were held on Tuesdays, which were his days off.

Supervisor Gabriels expressed a personal thank you to Councilman White for having stepped up and served as Town Councilman. He said that Councilman White's participation in all facets was greatly appreciated. He will miss Councilman White and all he does and on behalf of the Town Board, he wished Councilman White luck in whatever steps he takes in the future.

RESOLUTION #270

Councilman Andersen moved seconded by Councilman Saris, to pay the Town bills. All favorable. Motion carried.

Executive Session:

Councilman Saris moved, seconded by Councilman Andersen, to adjourn the regular meeting and enter executive session at 9:54 pm to discuss a budgetary question. All favorable. Motion carried.

Councilman Saris moved, seconded by Councilman Andersen to adjourn executive session and reconvene the regular meeting and adjourn at 10:15 pm. All favorable. Motion carried.

Minutes transcribed by:  
Jennifer Torebka  
Recording Secretary  
12/13/2005

Respectfully submitted by:  
Kathleen Simmes  
Town Clerk