

TB – Minutes
January 3, 2006

STATE OF NEW YORK
COUNTY OF WARREN
TOWN OF BOLTON

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

Absent: None
PUBLIC HEARING: None

REGULAR MEETING:
Supervisor Gabriels called the regular meeting to order at 7:17 pm.
Pledge of Allegiance – Kathleen Simmes

Announcements:

- The FEMA Declaration has been denied and the State appeal has been denied. The State is working on its own programs under which Bolton may be partially reimbursed for the June 13, 2005 storm event.
- According to press reports, Bolton Tops and 11 other Adirondack stores have been sold to C&S Wholesale Grocers of New Hampshire, the deal closes February 6, 2006 and the understanding is that Grand Union will operate our store beginning February 11, 2006.
- The Meal Site Menu is available in the Town Hall.
- The Town Board will have a meeting on Tuesday, January 17, 2006 at 4:00 pm at the Town Hall to consider awarding the bid for the salt storage shed. The bids are due at the Town Hall by Friday, January 15, 2006 at 12:00 Noon.
- There are now 2 Town of Bolton website addresses: [.town.bolton.ny.us](http://town.bolton.ny.us) and [.townofboltonlanding.com](http://townofboltonlanding.com).

Public in Attendance:

From the public, John Gaddy handed out informational packets to all Town Board members and said that he is present tonight to obtain a motion from the Town Board to state that the night sky of Bolton is a resource that is to be specifically protected from any and all aspects of light pollution. He has previously asked for specific issues for conceptual approval as addressed in his previously submitted letters to the Town Board dated 09/23/2003 (requesting a moratorium on restriction of colors on hillside houses and the adoption of a timeline or a deadline to adopt a lighting policy for the Town of Bolton) and 11/17/2004 (asking for a more vigorous implementation of the Master Plan goal and objective). He thanked the Town Board for helping to make things like the salt shed happen.

John Gaddy added that the specific reason for bringing up the topic of the night sky is because long-time Bolton residents seem to have had a rural outlook on outside lighting; a couple of issues within the past week have brought lights to the forefront including issues of two levels of lighting on Route 9N, light trespass and sky glow. The PB has adopted a policy where any new exterior lighting is to be shielded and downward facing so as to not contribute to light trespass or sky glow. It was brought to his attention that Bluebird Cottages (a project recently approved by the PB) a new form of lighting (ridge top lighting) is being used that neighbors don't seem to be fond of. The growth in Town will result in more lighting in Town and new development has led to changes in the lighting pattern by residents.

John Gaddy gave details on the materials in the submitted informational packets. He gave examples of other towns across the country that are implementing a lighting policy. He said that the essential goals from the lighting plan would be to replace existing street lights that are outdated technology and contribute to light trespass and light pollution. We have to continue the PB's policy of specifying appropriate lighting, and to have existing lights come into compliance with design guidelines to protect the night sky, maintain safe levels of lighting and not encroach on neighboring properties by light trespass.

John Gaddy noted that he thinks the lighting plan will be useful in assisting the development of the Town's architectural guidelines and help in dealing with National Grid in protecting county Route 11 and other scenic roadways. It will help the Town coordinate with the Lake George Park Commission regarding hillside development and reduce energy costs and lastly, it will help in the establishment of the Scenic Overlay District he has discussed with the PB.

John Gaddy concluded by saying that his past expressions of concern of certain implementation of the Master Plan has put him on several committees and he would like a motion tonight as stated earlier.

Councilman Saris said he and Councilman Andersen recently had a meeting with Lisa Nagle regarding the Master Plan and John Gaddy is on the list of people for Lisa to contact to be on the committee (to be formed on January 19, 2006).

Bob Weisenfeld asked if the Town or Counsel has received, as required by the conditions of subdivision approval and as part of the stormwater maintenance agreement signed by the original developer, a copy of the 2005 Fall Stormwater report from Bell Point Shores Inc. Homeowners Association. Supervisor Gabriels and Counsel both said they have not received a copy of the report. Counsel said he was instructed at the last Town Board meeting to send a notice to Mr. O'Connor and Mr. Damiano with a copy to Bob Weisenfeld, which was only just sent out and added that Bob Weisenfeld should be receiving his copy in the next few days. Bob asked if Counsel could forward him a copy of the letter via fax and Counsel said yes.

Bob Weisenfeld said he could only hope that someone in a position of authority in connection with this Homeowner's Association will see to it that they are in conformity with their obligations and he is disappointed with the absence of that report and he thanked the Town Board members and Counsel for their follow-up.

Correspondence:

- Letter from Carl Schoder recommending that the 2-ton hoist at the Town garage not be used until a particular beam and its connections are reviewed and repairs made.
- Notification of the pre-bid conference regarding the salt storage shed. Supervisor Gabriels said the reason for moving ahead quickly is because we may be eligible for a 50/50 match from the State Finkle Brook grant.
- Letter from the BLDC that they voted to repay the Town of Bolton the \$45,000 loaned to it as part of the stock acquisition of the Norowal Marina.
- Letter from Elaine Brown on behalf of the Bolton Chamber of Commerce requesting use of Veterans Memorial Park for the Bolton Classic Fishing Derby on March 4, 2006 from 4:00 am to 6:00 pm.
- Stack of correspondence regarding Twin Pines and the proposed subdivision—all urging extreme caution or in opposition to the proposal. Letters were submitted from the following: Hammer, Lawson, Lapins, Hieslmair, Dansen, Zamore, Brennan, Pedalino, Babe, Norelli, Gallin, Gallagher, Newcam
- Letter from Lindsay Gates requesting the use of Bolton Bed Tax money for an estimated sum of \$4,500.00 to bring a new dramatic play to the Town.

- ❑ Letter from Bob Patchett regarding damage to the bumper of his vehicle when the Town Highway forces were cleaning up the snow on the shoulders of the road. Damages total \$688.89.
- ❑ Letter asking if anyone is interested in acting as a consultant, who would have to be knowledgeable about the Town's historical properties. This concerns Verizon Wireless and the cell tower at the Sagamore cupola.
- ❑ Letter from Bob Dunsmore requesting that in the Highway's Union Contract that the insurance buyout option be paid in a lump sum amount at the first of the year rather than following the bi-weekly pay schedule.
- ❑ Letter from James LaFoy requesting payment for 40 hours vacation time remaining for 2005.
- ❑ Letter from Selective Insurance that they have denied coverage for the claim made by Kelly Bishop.
- ❑ Letter from Selective Insurance that they have denied coverage on Geary's claim for illnesses and sicknesses occurring in Rogers Park during the beginning of August 2005.
- ❑ Letter from Jointa Galusha that they are going to raise the price of \$.50/ton for aggregates effective the first of the year.
- ❑ Notice from the APA that they have received an application for a four-lot residential subdivision involving wetlands along Edgecomb Pond Road.
- ❑ Notice from the LGPC that James T. Kneeshaw, a Bolton resident, has been appointed to serve on the LGPC.
- ❑ Letter from NYSDOT that they feel a reduction in the speed limit on Federal Hill Road from County Route 11 to Saw Mill Road is not justified at this time.
- ❑ Reports from the Warren County Soil & Conservation District on sediment basin clean-outs that they have undertaken over the last several years.
- ❑ Annual Report of the Adirondack Park Local Governmental Review Board.
- ❑ Correspondence from the LGA supporting Mayor Blais's effort to enter into a state-shared municipal agreement services program, which would be essentially to acquire a camera for sewer and stormwater work for the entire basin.
- ❑ Indication of the Saratoga County Planning Board's Annual Meeting of Local Planning Board Members scheduled for January 25, 2006, which is open to any members interested in attending.
- ❑ Copy of the CSEA's Employment Fund Annual Report for 2005.
- ❑ Correspondence and documentation of advertising from the Warren County Department of Tourism.

Reports:

Councilman Maranville:

ASSESSOR:

- ❑ During December they verified the list of eligible enhanced STAR recipients as prepared by the NYS Dept. of Taxation & Finance. They followed up and rechecked all undetermined or non-eligible property owners as stated from the said list. They prepared renewal forms for seniors and not-for-profit corporations; day-to-day maintenance of deeds and transfers remains ongoing and kept up-to-date; new parcels from some of the numerous approved subdivisions have also been created—particularly those where deeds have already been filed and lots sold; and the Rainbow Beach Tax Certiorari Case is still pending.

POLICE DEPT:

- ❑ Hours officers worked: White – 56.0, Howse – 120.5, Schroeder – 80.5. Miles patrolled: 1,422 miles. Fuel used: 146.2 gals. Officers investigated 2 criminal reports, 3 security alarms, 2 uniform traffic tickets issued, 3 parking tickets issued, 2 auto accidents investigated, 2 domestic calls, 4 court securities, 1 arrest, 2 emergency medical assists, 2 fire department assists, 7 misc. complaints.

JUSTICE COURT:

- A/R: Judge Harry Demarest - \$4,480.00. Judge Edward Stewart - \$2,505.00. Total: \$6,985.00. There is an itemized list located in the court breaking down the amounts.

Councilman Saris:

TOWN CLERK'S OFFICE:

- Total Local Shares Remitted: \$6,096.38. Non-local Revenues: \$184.52.
Total State, Local and County Revenues: \$6,281.00.

SEWER DEPT:

- The Plant took in 5,422,730 gals of wastewater for a daily average of 174,926.8 gals. All the samples are done and there is a report of high nitrate levels in one well again. The maintenance of the sewer lines with Severn Trent is completed and 40,000 gals. of liquid sludge hauled.

HIGHWAY DEPARTMENT:

- No report.

Councilman Andersen:

PLANNING/ZONING OFFICE:

- Permits applied for: 7 certificates of compliance / 3 wastewater disposal systems / 2 variances / 2 site plan reviews / 2 subdivisions / 3 stormwater permits applied for.
A/R: \$785.75.

CODE ENFORCEMENT:

- 26 page report filed / 22 site visits including septic inspections, property line inspections, stormwater review, silt fence installations and numerous other issues along with many letters and requests of explanations of the Town's Zoning Ordinance / 158 miles logged.

RECREATION DEPT:

- A wide variety of programming continues including: elementary age skating groups roughly bi-weekly through the end of March. The Gore Mountain Lift & Lesson Programs begin January 8th and will run for six consecutive weeks. The Sagamore has graciously allowed the Rec. Dept. to take kids to the pool for three scheduled pool trips. A tubing trip to Glens Falls, movie night, Pool Tournament and a Snowmobile Safety Course will be taught at the Firehouse on January 14th which does require registration. The Recreation Commission has concerns with keeping people from driving and parking on the newly coated basketball court in Veterans Park.

BUILDINGS & GROUNDS DEPT:

- No report.

Councilman MacEwan

WATER DEPT:

- No report.

TRANSFER STATION:

- A/R: \$4,575.00. The main gate has been repaired, which was damaged during the C&D construction; Lisa French reported that Northern Car Crushers left a mess when they were there. The C&D bins are working out great.

ANIMAL CONTROL:

- No report.

-

Supervisor Gabriels:

SUPERVISOR:

- ❑ Total receipts: \$545,416.56. Total disbursements: \$741,334.74.
- ❑ The County Tax rate will be \$3.163, the Town Tax rate will be \$.767, the Lighting District Tax rate will be \$.087 and the Fire Tax rate will be \$.321. All rates are per thousand assessed for the coming year.
- ❑ Regarding stormwater, Supervisor Gabriels said stormwater was previously discussed and said that the major topic that is ongoing for the Town of Bolton is the salt storage shed.
- Warren County: undergoing organizational meetings later on this week.

Unfinished Business:

Town of Bolton/Sagamore Resort emergency water system.

Counsel said the Town has verbal approval, but there are a few additional terms the Town is waiting on. Supervisor Gabriels said the contract terminated on 12/31/05 and Counsel said that is correct. This item is pending.

Warren County Occupancy Tax Resolution.

Supervisor Gabriels said the County needs two resolutions approved and adopted by the Town Board; one to accept the \$30,000 to use the money for tourism and promotion activities for the Town of Bolton and the second to approve the amendments to the initial agreement. Counsel said he reviewed both documents and they are satisfactory if they are to the Town Board members' liking.

RESOLUTION #18

Councilman MacEwan moved seconded by Councilman Saris to adopt the following resolution
WHEREAS, the County derives revenues from the Occupancy Tax authorized by act of the New York State Legislature (Chapter 422 of the Laws of 2003) and, after deducting the amount provided for administering such Tax, is to allocate the funds to enhance the general economy of the County of Warren and its Cities, Towns and Villages through the promotion of tourist activities, conventions, trade shows, special events and other directly related and supported activities, and

WHEREAS, an Amendment Agreement between the County of Warren and the Town of Bolton (hereinafter Municipality) is presented at this meeting, which

Agreement proposes to provide funds to the Municipality for Tourism promotion and tourist and convention development (hereinafter "Agreement") from 2005 Occupancy Tax Revenues, and

WHEREAS, the Agreement provides for initial funds of Thirty Thousand Dollars (\$30,000) from 2005 Occupancy Tax Revenues and for additional funds to be provided only pursuant to further resolution adopted at the sole discretion of the Board of Supervisors with all funding subject to and in accordance with and the terms and provisions of the Agreement (without the need to approve and sign additional agreements for additional payments, and

WHEREAS, the Agreement also contains provisions concerning allowable fund expenditures, accounting, record keeping and under certain circumstances, refunds of Occupancy Tax funds being paid to the Municipality and

WHEREAS, the Municipality is ready, willing and able to provide for promotion of tourist activities, conventions, trade shows, special events and other directly related and supported activities, and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to carry out the terms of the Agreement and now, therefore, be it

RESOLVED, that the Town of Bolton hereby enter into the Amendment Agreement with the County of Warren and the Supervisor, be and hereby is authorized and directed to execute the Agreement on behalf of the Town of Bolton with the County of Warren for the receipt of funds in the amount of Thirty Thousand Dollars (\$30,000), with the understanding that:

1) Additional funding may be made by the County of Warren pursuant to the Agreement, as

Occupancy Tax revenues shall become available and in such amounts as the Board of Supervisors shall, in its sole discretion shall determine appropriate pursuant to a municipal sharing formula to be approved by the said Board of Supervisors and

2) that all funds received pursuant to the Agreement shall be subject to the terms and provisions of the Agreement (without the need to approve and sign additional agreements) and

3) unexpended funds will be retained by the Municipality even after the scheduled termination date provided the funds are expended for eligible expenditures, and be it further

RESOLVED, that specific expenditure of the funds provided under the Agreement shall be subject to further approving resolution of the Town of Bolton Town Board. All Favorable. Motion Carried.

New Vermont Road culvert replacement

Supervisor Gabriels said Carl Schoder of Schoder River Associates submitted a letter recommending approval of final payment in the amount of \$15,581.00, which includes the balance outstanding on the contract and release of the 5% retainage as well as \$1,714.00 for change order #1.

-
RESOLUTION#19

Councilman Saris moved, seconded by Councilman Andersen to make the final payment for the New Vermont Road culvert replacement in the amount of \$15,581.00 to Gallo Construction as recommended by Carl Schoder. All favorable. Motion carried.

Regarding the Transfer Station modifications, Supervisor Gabriels said Carl Schoder of SRA submitted a letter recommending approval of final payment in the amount of \$1,714.00, which includes the balance outstanding on the contract and release of the 5% retainage.

RESOLUTION #20

Councilman Andersen moved, seconded by Councilman MacEwan to make the final payment for the Transfer Station modifications in the amount of \$1,714.00 to Gallo Construction as recommended by Carl Schoder of SRA. All favorable. Motion carried.

Pending Items: There was no action on pending items.

-

-
Board of Health/Water Commissioners:

RESOLUTION #21

Councilman Andersen moved, seconded by Councilman Saris to adjourn as Town Board and convene as Board of Health to discuss two failed septic issues. All favorable. Motion carried.

Susan Tennent failed septic system

Keith Manz, Engineer representing applicant Susan Tennent, said that he designed the proposed replacement system, which is needed on an emergency basis because the existing septic tank is metal, eroded and can collapse at any moment and is backing up. The only reason they are before the Town Board is because the proposed system does not meet the 100' setback requirement from the pond. The proposed system does meet the distance requirement from the well. Supervisor Gabriels said for the record that the referral letter from Keith Manz to the Town Board states that the percolation rate measures 3 minutes and 22 seconds and Keith Mantz said that is correct.

Supervisor Gabriels asked the difference between the proposed system and the failed system and Keith Manz replied that the proposed system is a pump and elgin system which will require about one third the leach field length as opposed to the existing or a normal system. He thinks the existing system was put in its location because of a higher elevation in the back so it would work on gravity to the pond; and the

proposed system will be located alongside the pond where it is higher which will actually be farther from the pond than the existing system.

Supervisor Gabriels said this is a failed septic system being presented under an emergency basis for a septic variance. In normal course of events septic variances are handled through public notice in newspapers and notification to surrounding property owners. This has come to the Town Board without public notice or notification to the neighbors and the Town Board now has to make a decision if the proposal is an appropriate strategy to follow in resolving this matter.

Counsel said the strategy he would recommend is first and foremost the Town Board has to accept the notion that this situation is an emergency, and if indeed the Town Board does, then he would recommend the board act upon it giving consideration to what the applicant needs. The applicant needs to be forewarned that there is always the possibility, since the Town must still hold a public hearing, that next month upon adequate public notice when the matter will be revisited there is the possibility no one will complain or wish to be heard. There is also the possibility that someone will have something important to say and it constitutes such important information that the Town Board may have to defend itself for acting in the emergency or change its mind. Given the possibility that the emergency needs to be responded to tonight—especially before the frost really gets in the ground—the Town Board is on fairly safe ground to act upon it, but continue with the public notice and understand that there is a risk aspect to it. Keith Manz said they understand the risk and that they meet the setback from the DeNooyers' well. Counsel said yes, that is why he thinks it is within margins of discernable risk, so it is pretty safe, but the public is entitled to notice. Supervisor Gabriels asked if the applicants would be present at next month's public hearing to answer any questions that may arise and Keith Manz said yes, he would attend.

Councilman Saris said a functioning system is better than a failed system. He thinks the proposed system is an improvement over the existing system and an improvement design-wise within our ordinance. It is the Town Board's obligation to resolve this matter as quickly as possible because postponing action only increases the chance of some kind of a bad situation as far as public health goes. Councilman Andersen agreed and asked if a letter from Town Engineer Tom Nace had been received regarding this matter.

Supervisor Gabriels said the Town Board did receive a letter via fax from Tom Nace on this matter. The Town Engineer finds that in reviewing the proposed system, it is appropriate for the site and a variance will be required, which he believes is justified and will result in an environmentally better septic system.

RESOLUTION #22

Councilman Saris moved, seconded by Councilman Andersen to approve the variance for Susan Tennent Tax Map #156.00-2-43.9 located on North Bolton Rd. Variance approved is for a 40' distance from the pond instead of 100'. This variance is subject to the public hearing requirement and will be discussed as an after-the-fact item at the February 7th Town Board meeting. All favorable. Motion carried.

John and Judith Ruge failed septic system

Supervisor Gabriels said there are some ongoing issues with this matter and he received an e-mail from Judith Ruge that they would be unable to be in attendance tonight due to the weather and requested postponement of this item until next month's meeting, and since there has been no public notice or neighbor notification on this item he suggests it be postponed.

RESOLUTION #23

Councilman Saris moved, seconded by Councilman MacEwan to table the matter of a failed septic system for John and Judith Ruge, 24 South Trout Lake Road until next month's Town Board meeting. All favorable. Motion carried.

RESOLUTION #24

Councilman Saris moved, seconded by Councilman Andersen, to reconvene as the Town Board. All favorable. Motion carried.

Referrals from Code Enforcement Officer / ZBA / BPB:

Irving Metzger, Homer Point

Supervisor Gabriels said the Town Board has been asked by Pam Kenyon, Zoning Adm. to make a determination on whether the renovation of the Metzger home constitutes "new home construction" or merely a substantial renovation of the home down to the foundation. If it is just a renovation, then the Metzgers can continue to use their existing septic system (holding tanks) and if it is determined to be "new home construction" then it requires compliance with NYSDOH and Appendix 75A, which would require a conventional system in some capacity; and the Metzgers' desire is to continue using the holding tanks.

Councilman Saris asked if the ZBA would be the correct board to determine "new home construction" and Counsel said no, because the ZBA is limited to interpretations of the Bolton Code, but there is no definition of that currently in the Code.

Counsel said this is a difficult issue with not a lot of guidance. It is one that if a determination can be made to say it is "new home construction" or not, then the rest will fall into place, because NYSDOH Appendix 75A clearly states that the Town Board is not even in the position to give a variance to allow a holding system on new construction. The Town Board is in a position to allow variances and NYSDOH is permitted to allow holding tanks where there are pre-existing dwellings.

Supervisor Gabriels said unfortunately the NYSDOH wrote a letter to P. Kenyon on 12/22/05 stating that it is the jurisdiction of the local Code enforcement official to establish if the project in question is determined to be "new home construction".

Councilman Saris said at one time, it was interpreted that although the ordinance said you could always maintain a pre-existing non-conforming structure, you couldn't knock it down and rebuild. There were literally people leaving one 2' X 4' standing and saying they were only repairing a structure. It seems awkward to make people do things the hard way. The rationale at the time was to motivate people into compliance, whereas if you wanted a new home, you build it where it meets the setbacks rather than in the old non-compliant area. It seems this situation is somewhat parallel. There is a desire to want to motivate people to up-grade their septic systems at some point in time so they are better functioning with the new technologies available, but at the same time you're not trying to put somebody in a jam where if they fix their house by replacing it with a new one, they can't even get a holding tank if that's what they need.

Counsel said what makes this more difficult is that once the Town Board embarks upon a determination on this issue, the Town Board will have set ample precedent for what happens in the future.

Supervisor Gabriels said the sketch plan for this item indicates that rehabilitation occurs substantially on the existing footprint, but not completely. Councilman Saris said when he was a ZBA member, if a house burnt down you could rebuild it in the same spot, but if you knocked it down and wanted to rebuild it you were in violation—which doesn't seem to make a whole lot of sense and it's almost the same thing here.

Supervisor Gabriels said he doesn't know what the applicant's timeframe on this would be. He read Tom Nace's 12/13/05 determination letter addressed to Zoning Administrator and he added that the Town Board received a letter from the applicant's architect, Curtis Dybas regarding on-site investigations and perc. tests completed on 11/12/05.

Councilman Saris said one thing that troubles him is going back to being consistent with how the Town Board has handled other matters in the ordinance. Somebody can maintain or rebuild their house now instead of having to save that one stick standing up, but it has to be within the original footprint—not outside of it. He can handle the argument that it is not new if the applicant is replacing the same thing that is there, but when the applicant is doing it and expanding outside the original footprint then that is an issue for him.

Curtis Dybas, architect on the project, said the Metzgers bought the property in 1985. The holding tanks were installed in 1995 because there was no way to get a septic system on this property to be within the 100' setback from the lake. There are two significant structures (four total) on the property now. They are proposing all will be demolished and replaced with a three-bedroom house. The actual usable area on the site is increased by 390 square feet. The intent is to not over-develop this parcel. They received approval from the ZBA to do this and he views it as a replacement of an existing residence, not new construction. The two options available are to abandon it or use the existing holding tanks. Supervisor Gabriels asked if the holding tanks were installed in 1995 to solve the original leach field problem and Curtis Dybas replied by saying yes, there was a system failure in 1995.

Councilman Saris said the problem is that if the Town Board calls it “new construction” then the applicants can’t have a holding tank. Counsel said he would like to steer away from the term “new construction” as the NYSDOH very clearly told this board that it is not in a position to grant any variance should “new construction” require a holding tanks. That is not within the parameters of a variance.

Supervisor Gabriels read a portion of NYSDOH’s letter to P. Kenyon regarding the use of holding tanks. Curtis Dybas said he considers it a “replacement” not a “new home”. Councilman Saris asked how much is new and how much is replacement of the original home and Curtis Dybas answered by saying he thinks they designed the proposed home being very cognizant of the footprint of the building on this site. What is back on the northeast and south is either on or inward from what currently exists, the only place the proposed house moves back from the original footprint is to the west.

Supervisor Gabriels asked for location clarification and Curtis Dybas provided the information as requested by showing the location on the map and providing a description of the location.

Councilman Maranville asked if the proposal is to demolish all of the existing buildings on the property and Curtis Dybas said yes. Councilman Maranville asked if the applicants are proposing to rebuild on the same foundation and Curtis Dybas said no, there is a loose rock foundation currently existing. Councilman MacEwan asked what the proposed type of foundation is for under the house and Curtis Dybas answered by saying the foundation will be poured concrete.

Councilman Saris asked if the term “replacement home construction” would be acceptable by NYSDOH and Counsel said yes—it is clearly the Town Board’s determination, as the NYSDOH made the regulation, but they have the local Town Board apply and interpret the regulation.

Supervisor Gabriels asked if there are currently five bedrooms and the proposal is for three bedrooms and Curtis Dybas said yes and there will also be a two-car garage with storage above the garage with no apartment. Supervisor Gabriels asked if having no apartment above the garage was a condition of receiving PB approval and Curtis Dybas said no. Supervisor Gabriels said it is designed that way, but it may happen in the future, so the Town Board can make it a condition of approval. Curtis Dybas said one of the advantages of a holding tank system is that the more you use it the more you pump it, whereas a leach field system is designed for the number of bedrooms and there are alarms and control systems on the holding tank system that you can’t override. Supervisor Gabriels asked if the controls are on the system and Curtis Dybas said they have to be installed on the system per the code.

Supervisor Gabriels said it seems to him that there is an adequate existing system and the Town Board needs to decide if this is "new home construction" or "replacement home construction". Councilman Maranville asked for the definition of "replacement home" and Counsel said if this is a "brand new home" then the applicants are done because the Town Board cannot in any way, shape or form, permit a holding system on a brand new home. The NYSDOH takes the opportunity to present it to the Town Board and the Town Board makes a decision on whether or not it finds an acceptable explanation that this is somewhat different from a "new home" and clearly the Town Board can make that distinction if it feels comfortable with. Here is a piece of property that presently has a home on it and it will be demolished and replaced, which is different from a brand new home on virgin soil. The Town Board is in the difficult position of having to deliberate and make a decision as to if the holding system will be allowed based upon the explanations it may or may not accept.

Councilman Saris said he is disappointed that the NYSDOH makes it as difficult as they do because he personally doesn't have a problem with the concept of holding tanks that they seem to have. Counsel said NYSDOH really makes it difficult because if you ask them they will tell you that a holding tank will probably work much better than an in-ground system. Councilman Saris said in an effort to protect the lake he doesn't want to see marginal systems or somebody's property being rendered useless because they can't put a system on it. By the same token this will potentially set a precedent of some sort. He would feel more comfortable if he could see plans, a map of the site, the footprint of the existing dwelling, the footprint of the proposed dwelling, etc., probably much of the materials that have already been provided to the ZBA and PB, so the Town Board can review it as well. Supervisor Gabriels said the Town Board members might not have received all of that information because he didn't get to copy it. Councilman Saris said he has no problem with the concept, but as far as setting a precedent, he would like to see more information before making a determination.

Supervisor Gabriels reiterated that there are some concerns and the Town Board members would like further information. Curtis Dybas asked if the Town Board could review the information presented to P. Kenyon and the Town Board members said yes.

Supervisor Gabriels said he thinks the real reason NYSDOH is reluctant to deal with holding tanks is because they require constant pumping which is an expense most homeowners don't want and normal leach fields, when they are working properly, are no expense.

RESOLUTION #25

Councilman Saris moved, seconded by Councilman MacEwan, to table the Metzger determination until review of the requested information and will be revisited at the February 2006 Town Board meeting. All favorable. Motion carried.

New Business:

Pioneer Village Improvement Association Inc.

Supervisor Gabriels said the organization made a conceptual application to the Town Board to acquire water from the Town's municipal water system.

Atty. Bob McNally, representing Pioneer Village, said he was asked by his clients to assist them in getting an extension of the existing water district to their association. The association filed their petition earlier in 2005 and he is present to re-start the process. He gave an overview of the location of the water main and the project, and said the association is looking to secure water from the Town and they will bear the cost of maintenance, construction. C.T. Male Associates are the Engineers and estimates for the cost of installing the water main at \$250,000. This project will get more people on the municipal system. Town Engineer Tom Nace and Michael Shaw of NYSDOH both seem to be on board with the project. They

need a little more time to make minor modifications to the plan, and he requested the proposal be put on the February 2006 agenda for discussion and on the March agenda for a public hearing.

Councilman Andersen asked if Pioneer Village will also be responsible to secure the proper easements from the State for the right-of-ways and Atty. McNally said there aren't any easements in the State right-of-way and the DOT will let them drill and perform the construction necessary to lay the main, which is a separate issue that C.T. Male will handle with DOT.

Supervisor Gabriels asked if the project has been made known to the DOT and Atty. McNally said he is unsure of the status. Supervisor Gabriels said his rumored understanding is that DOT plans to do a lot of paving next year including this section. He asked for information on the estimated consumption/use of gallons per day/year for Pioneer Village; and suggested the water meter location be as close to Braley Hill as possible, so if there were any breaks in the State right-of-way the cost of that water would also be picked up by Pioneer Village.

Atty. McNally said they are proposing that whatever repairs and maintenance are required are a responsibility of the association. The water main will be owned and controlled by the Town, so that the association would assume the cost of maintenance and repair to the water main which would be reflected in the association water bills.

Counsel asked how many users are in Pioneer Village and Atty. McNally said there are 45 users, but he is not sure if all would hook up, however he believes they are required to hook up. Supervisor Gabriels asked if the water main is going to be built for year-round use and Atty. McNally said it is hard for him to judge. Supervisor Gabriels said the water consumption curve has been downhill since the water filtration plant.

Councilman MacEwan asked if all 45 homeowners will be sharing the cost of the new line and Atty. McNally said yes, they are all going to share the costs, but not all will be using the municipal water because a number of them have private deep wells. All homeowners voted to share the cost; and the 45 lots include vacant lots.

Supervisor Gabriels said the reason Pioneer Village is having this difficulty is that there is a considerable number of property owners down there that use shallow wells or they draw from the lake and with new EPA regulations they need to filter the water and this proposal is looking to be the most viable mechanism they have.

Supervisor Gabriels asked if there are any items the Town Board should be reviewing prior to the February Town Board meeting and Counsel asked if the Town Board has been thinking about the possibility of a workshop regarding the number of water bills and how customers are billed.

Notice of Claim dated 12/21/05

Supervisor Gabriels said the Town has been served with a Notice of Claim from the Estate of Linda Curtis vs. The Town of Bolton and asked if Counsel would defend the Town on this matter. Counsel said the Town Board does not want to ask him that now because he does represent the Estate of Linda Curtis, but he was not however the attorney to file the notice. If the Town Board accepts this understanding, a notice must go out to protect the Estate's rights with respect to any possible claim against all possible defendants. It was done by a different attorney; and he doesn't expect it to go further, but if it does then he would decline and remove himself from representing the Estate of Linda Curtis and from representing the Town.

Municipal Shared Services Agreement

Supervisor Gabriels said the concept is to apply for a grant to purchase a camera to video storm sewer lines. If the grant were successful the Town of Bolton would be responsible for 1/5 of the cost equating to \$1,610.00. He recommends the Town enter into the agreement.

Councilman Andersen asked if they will not proceed if they don't get the grant and Supervisor Gabriels said that can be a condition of Bolton's participation. Councilman Andersen said he thinks it is a good idea, but only if the Town of Bolton's total commitment is \$1,610.00 based upon the grant being used. Councilman Saris said the Town can certainly use this equipment and finding out exactly where the problem is, is key in disturbing as little land as possible. Councilman MacEwan agreed that the equipment would be good for the Town.

Supervisor Gabriels read the agreement letter and Counsel said the letter says the Town Board will support the proposition that the grant will be made. He is sure that if Mayor Blais has the Bolton Town Board's support that his expectation is that should he get the grant then the Town of Bolton would also be a member and a participant. It is not a commitment tonight on the Town Board's contribution. Further discussion ensued on this matter. Our share of applying for the grant is \$500.

RESOLUTION #26

Councilman Andersen moved, seconded by Councilman MacEwan

Resolved, the Town Board of the Town of Bolton does hereby support our application for funding to the New York State Department of State Shared Municipal *Services* Incentive Grant program for the purchase of television equipment necessary to inspect and insure proper maintenance of our sanitary sewer lines and related underground facilities.

We further resolve to support the Village of Lake George acting as the lead applicant and agree to share equally with all other co applicants in the local *share* of the project.

We support the need for such equipment to insure proper maintenance that is necessary for the protection of Lake George, and will realize a substantial savings to our taxpayers, and have the ability to do periodic inspections for a minimal amount of our former costs.

We respectfully urge approval of the application on behalf of all participating communities along the lakeshore. Our share of applying for the grant is \$500. All favorable. Motion carried.

Regarding the Adirondack Park Regional Assessment Project, Supervisor Gabriels said the Adirondack North Country Association and the AATV are supporting a grant application under the Mountain Communities Program of an EPF Grant. They are requesting \$250.00 in total support from each Town in the Adirondack Park. Councilman Andersen said the Town's exposure is \$250.00 and Supervisor Gabriels said yes.

RESOLUTION #27

Councilman Saris moved, seconded by Councilman Maranville, for the Bolton Town Board to support the Adirondack Park Regional Assessment Project by contributing \$250.00. All favorable. Motion carried.

Regarding the Chamber of Commerce request for the use of Veterans Park and electricity there on March 4, 2006 for their fishing contest, Supervisor Gabriels asked if a permit was needed and Councilman Andersen said no.

RESOLUTION #28

Councilman Andersen moved seconded by Councilman Maranville for the Bolton Town Board to approve the use of Veterans Park and the use of the electric by the Chamber of Commerce on March 4, 2006 for its fishing contest. All favorable. Motion carried.

Supervisor Gabriels asked what the Town Board wanted to do regarding parking on the beach/grass area and Councilman Andersen said vehicles should be kept off the beach and grass areas as there was damage there last year that brought about challenges for the Parks Department.

Officer Jim White said there were several occasions where there were a lot of cars parked in the aforementioned areas and it did lead to a problem when it softened up. The snowmobiles and ATV's were all over the grass area. Councilman Andersen said when the ground is frozen there is no issue, it is when it softens up that it gets damaged and his biggest concern is with the trucks and trailers. Councilman MacEwan asked if putting up a snow fence is an option and Supervisor Gabriels said he thinks the problem last year was the warm spell. The Town allowed it to happen, rather than being taken advantage of and if the Town doesn't let it happen again, the question is if there will be enough parking to accommodate normal ice fishing traffic in addition to the March 4th traffic. Councilman Andersen said it is a great access point, so he doesn't know if there will ever be enough parking there.

Officer Gil Howse said the Town is losing the space of the basketball court also, since parking is not allowed there. Councilman MacEwan said you can't keep people off without fencing or signage and Councilman Andersen agreed. Several options of signage and fencing were suggested and discussed.

RESOLUTION #29

Councilman Andersen moved, seconded by Councilman Saris, to allow no truck and trailer parking on the lawn area of Veterans Park and for that area to be barricaded with signs reading "No Vehicle Parking Beyond This Point—All Others Will Be Towed At Owner's Expense". All favorable. Motion carried.

Supervisor Gabriels said James LaFoy of the Highway Department has requested 40 hours vacation pay that he will be unable to use.

RESOLUTION #30

Councilman Saris moved, seconded by Councilman MacEwan, to approve James LaFoy's request to be paid 40 hours vacation time, which he will be unable to use. All favorable. Motion carried.

Supervisor Gabriels said Bob Dunsmore of the Highway Department is requesting the insurance buyout figure of \$600.00 in one lump sum in January rather than on either a prorated basis or lump sum at the end of the year.

Councilman Andersen asked if the buyout has always been prorated or at the end of the year and Donna Boggs said it has always been prorated and her feeling is if it is a lump sum it should be given at the end of the year, not the beginning. Councilman Andersen asked if there is any Union contract language that relates to that and Supervisor Gabriels said no. Counsel said the buyout is earned, not advanced, so you can't do that—you can't make an advance by giving a lump sum at the beginning of the year because an advance is a gift, so the Town Board should leave it alone.

Supervisor Gabriels said we need an amendment to the 2006 Budget to make sure the Warren County Youth Recreation Services Program clearly delineates in our budget what we use the State funding we receive for.

RESOLUTION #31

Councilman Andersen moved, seconded by Councilman Saris to include a specific expense item in the Recreation budget #A7140.4 for Youth Recreation Service Programs. All favorable. Motion carried.

Regarding establishing a sign ordinance, Supervisor Gabriels said the ZBA passed a resolution on 12/19/05 requesting the creation of a sign ordinance by the Town Board that deals in part with banners. This is in response to Ike Wolgin's request for an interpretation of what a banner is specifically the banner at The Saint Sacrament Church.

Councilman Saris said he believes the Town needs a more comprehensive sign ordinance and he thinks in the review of the Town's Zoning and Comprehensive Plan it will be addressed sooner rather than later. There is an existing ordinance stating any sign over 2' X 2' requires site plan review. He thinks it is an issue for the ZBA to decide whether or not a banner is in fact a sign and requires site plan review under the present ordinance. The material of the sign is not addressed which makes him wonder why a banner is somehow exempted from that—neon isn't and neither is wood, metal, etc.

Counsel said procedurally he agrees with everything Councilman Saris said. Counsel attended the ZBA meeting in question and they kind of waffled and handed it over to the Town Board. Substantially the Zoning Administrator has led the ZBA into the possible conclusion that she historically has never regulated a banner, so that is why we're at where we're at. When the church put up a large banner it was not regulated which has been historically consistent. The matter did get presented to the ZBA as an interpretation and rather than the ZBA come up with an answer they pointed out that the application in the code did not seem to be specifically clear. If historically there had been a distinction made between banners/temporary signs versus something that is not on cloth or doesn't wave in the wind then as Ike Wolgin correctly pointed out that he guesses that means tomorrow he could put up banners all over his business and Counsel said yes. If you are going to make a banner not a sign it is not a good place to be code wise.

Supervisor Gabriels asked if the Town Board could establish a public hearing for an amendment of the Zoning Ordinance regarding banners and Counsel replied by saying Willie Bea McDonald and Pam Kenyon both acknowledged they were on a committee five years ago that manifested a product and presented it. Councilman Saris said that it is a dead issue—they put a lot of work into it and came up with a proposal that went nowhere. Quite honestly he feels Lisa Nagle is better equipped to come up with a new ordinance and Counsel said he agrees.

Councilman Saris said the ZBA didn't make a determination, but tabled it and asked if the Town Board can send it back to the ZBA asking them to make a determination. Counsel said yes, you can and added that the Town Board can also give consideration to a sign moratorium for a specific length of time, which is narrowly defined, but that the Town must also be working to create what will be the new ordinance for consideration and the moratorium does permit variances.

Councilman Saris said he feels part of the reason the ZBA sent this to the Town Board is because there is a need for a better sign ordinance and nothing has happened. He agrees with that and can appreciate it but the ZBA can rule differently. Counsel said he thinks if the Town Board shoots it right back to the ZBA and says the ZBA needs to decide it, then they must and he would be there at that meeting urging the ZBA to make a determination.

RESOLUTION #32

Councilman Saris moved, seconded by Councilman Andersen to request the ZBA revisit the request for interpretation of a banner as requested by Ike Wolgin and make a determination in this case. All favorable. Motion carried.

Supervisor Gabriels said he was also on the committee and one of the reasons the proposal went nowhere is because it was so strict and added that the Town Board does need some input from the ZBA on issues like this because Lisa Nagle is not going to create changes to the Zoning Ordinance out of thin air. It has to come from decisions all of the Board members make. Councilman Saris said Lisa Nagle has asked that a committee be formed consisting of two ZBA members, two PB members, the Zoning Administrator and the Code Enforcement Officer, so he thinks she will have that input. Supervisor Gabriels said if the ZBA makes a decision it will be a good addition to that input. Counsel said ultimately this package will have to pass the test of the APA.

Time clocks

Councilman Andersen said he has a few brochures. Biometrics is the term used—low price would be \$1,500.00 per location which can all be done through high speed DSL and linked to one main computer or at each individual location as desired. He researched the State site regarding time clocks and feels he needs to contact Jim Casaccio for further information.

Regarding the use of various Departmental Town Forces to assist in community activities, Supervisor Gabriels said one example brought up tonight was the parking in Veterans Park and the possibility of asking the BLDC for some portion of their land to be used for wintertime parking, but the Town can't get that without permission.

Councilman Saris also had questions raised to him personally asking if it is appropriate or not for the Town, now that the BLDC owns Norowal Marina, to plow and do that type of work there. Personally the Town has always seemed to have an unwritten policy, and maybe it is time to change it to a written policy, where the Town clearly extends that courtesy to not-for-profit entities in the Town (library, museum, school, etc.). He thinks the Town should be consistent in extending those courtesies. The point was made to him that the Town had made an obligation to not use tax revenue in support of the Norowal Project specifically and he can honestly say that when he was discussing those issues that meant going into the General Fund and writing a check for a purchase, mortgage payment, etc. Whether or not the Town's Highway Department or some other group plows the Norowal parking lot, he doesn't believe it is going to change the budget of that department. Although one can make the argument that those people are on the Town payroll that is not what he meant by not putting Town resources into the Norowal Project. He thinks there is an obligation in Town to support various organizations that are not-for-profit and basically for the benefit of the people of Bolton, but he could be mistaken.

Counsel said he totally agrees with Councilman Saris. When the issue was raised he checked with other municipalities who do offer services to their not-for-profits (ex. volunteer fire companies, rescue squad, senior citizen center, etc.), it would be nice to have a memorandum or letter of understanding which will signify that there is a dual sharing of services. It's not a give away like writing a check. The Town is basically just providing a service to a not-for-profit as a little bit more formality than a courtesy, but it is totally legit.

Councilman Saris asked if Counsel could generate the memorandum for the next meeting and Counsel said yes. Counsel also said that the one thing that troubled him when he first saw it is that this municipality is very generous to seniors by giving salt and sand and some people might criticize that, but is the right thing to do. When he asked other municipalities they said they do it also. Councilman Saris said he doesn't want to stop any of the Town of Bolton's activities in that respect, as it is one of the nice things the Town does, but he does want to have an answer for the next person who poses the question.

Public in Attendance

John Gaddy said last month he asked the Town Board to look at the cost estimates he generated from a cost calculator on lighting the Town shed and he re-clarified the numbers saying it would cost \$4,545 for the year to keep the 25 sodium lights on all the time, it would cost \$399 per year if put on timers with an

average of one hour per night. If there were motion detectors up there the Town would save approximately \$4,155 per year. He also provided all Town Board members with an article for their review.

Bob Weisenfeld said regarding the parking on the grass problem at Veterans Park and plowing at Norowal Marina, the BLDC may be interested in operating the Norowal site for winter access. Supervisor Gabriels said it is a matter of discussion for the BLDC for next year.

Bob Weisenfeld said when the matter of banners comes before the ZBA he hopes the reference is to advertising banners. Counsel said it is just commercial speech.

Other Business:

Councilman Andersen said he would like the Town Board to consider having the Highway Department sand the Town Hall parking lot, the Health Center and the Senior Center. Supervisor Gabriels said he will pass the information on to Tim Coon. Councilman Saris said he thinks the Parks Department is continually going to have more and more to do. He appreciates the fact that the Parks Department employees want to try to do a good job in the things they do, but everything else needs to get done also.

RESOLUTION #33

Councilman MacEwan moved, seconded by Councilman Maranville, to pay the Town bills. All favorable. Motion carried.

Executive Session: None

Councilman Saris moved, seconded by Councilman Andersen, to adjourn the regular meeting at 10:07 pm. All favorable. Motion carried.

Minutes transcribed by:
Jennifer Torebka
Recording Secretary
01//13/2006

Respectfully submitted by:
Kathleen Simmes
Town Clerk