

TB Minutes July 3, 2007

STATE OF NEW YORK

COUNTY OF WARREN

TOWN OF BOLTON

Present: Supervisor Alexander G. Gabriels III, Councilmen Scott Anderson,
Rob MacEwan, Owen Maranville, Jason Saris,

Town Counsel Michael Muller, Town Clerk Kathleen Simmes

Absent: None

Pledge of Allegiance: Jason Saris

Public Hearing:

Supervisor Gabriels opened the continuation of Public Hearing of Local Law #2 of 2007 amending 200-46 B (10) of Zoning Code pertaining to "cut & fill" at 7:00pm by saying that the proposed language of cut & fill shall not endanger adjoining property or divert water onto property of others. Maximum cuts or fills shall be six (6) feet for all construction, however, this limitation shall not be applicable to any cut or fill required for the placement of a basement under a building. No comments of public in attendance. No TB member comments. The public hearing remained open at this time.

Regular Meeting:

Supervisor Gabriels called the regular meeting to order at 7:03 pm.

Announcements:

July 2, 2007 was declared by Warren County proclamation Walter F. Lamb Sr. Day as part of Warren County Deceased Veterans Day program at the Municipal center

Finch Pruyn has undergone a change of ownership. The Lake George Land Conservancy has acquired two parcels and has no change of plans for them at this time.

Contract for professional design services with Schoder Rivers Associates for repair of the pier has been signed and submitted

July 4th fireworks will take place off Rogers Park at dusk; there is no rain date

Conservation Park - used 5 times in June and scheduled for use 7 times in July - meeting of Conservation Park Citizens Group Thursday 07/05/07 at 4:00pm to discuss Carl Schoder's draft RFP - note: memorandum of understanding between Bolton/Schoder has been signed - waiver of any appearance of impropriety - agreed to by Supervisor Gabriels

Controlling Canadian geese in parks - NYSDEC permit has been received for control of a maximum of 25 geese

Meal Site Menu is available in the Town Hall.

There are now 2 Town of Bolton website addresses: www.town.bolton.ny.us and .townofboltonlanding.com.

Public in Attendance:

Eileen Fitzgerald, Dula Place resident, asked why the water fountain in Veterans Park is still not working, as it has been out of service for two years. Supervisor Gabriels said this is the first he has heard of the situation and the Town will remedy the matter.

Dennis Murphy, Trout Lake resident, said Local Ordinance #31 needs to be addressed because the horsepower restriction on Trout Lake has been and continues to be violated. He added that there has been a constant increase of boats on Trout Lake, including those in violation of the 50 hp restriction and boats traveling in excess of 40, 50, 60 and 70 mph. Councilman Maranville asked how Mr. Murphy knows the size and speed of the boats. Dennis Murphy said that he knows what his boat can do, so he can make an educated assumption of the other boats on Trout Lake and he believes it is a safety issue. Dennis Murphy said he has been told the horsepower restriction is unenforceable, but he wants to know what the Town of Bolton can do about this matter, because neither the Sheriff's Dept. nor the NYDEC will enforce local ordinances. Supervisor Gabriels said that the Town of Bolton would again speak with the Sheriff to see if the Sheriff Dept. will patrol Trout Lake.

John Gaddy said that he sent a letter to the TB regarding the clearing that has taken place on North Bolton Road and in speaking with Counsel, he was told that the Town of Bolton is responsible for being regulated by its own stormwater regulations. He thinks that the level of clearing that is being done on the roads in town is going completely in opposition to the goals and desires stated in the Comprehensive Plan that was adopted in 2003 and he is amazed there has been no dialogue on the issue between the TB and the Bolton Highway Dept. regarding road clearing. John Gaddy said that his understanding is that there were maples taken down on private property by the Highway Dept. and asked if the Highway Dept. is so arrogant or ignorant in not contacting property owners and asking them before cutting down trees. Supervisor Gabriels said that in defending the Highway Dept., they do make a conscious effort to contact the property owners regarding the trees. He also said that a Highway Dept. staff member told him that it was a contractor for National Grid that took the maple trees down. John Gaddy said that he is mistaken then and he is also hoping the TB has the power to be able to have a gentler and kinder road crew that might be able to maintain the town roads for safety, for proper drainage, but without the kind of destruction going on, because it is quite dismaying. He added that by the golf course, Warren County cut down invasive species, which will spread and he is requesting a compromise between the kind of devastation that been happening and trying to see if some of the roadside cutting can be put off until later in the year. John Gaddy said that he is hoping his road is improved and hopes for the opportunity to be able to sit down to discuss the matter with different parties in the town, PB, TB and Highway Dept. to see what common goals there are.

There were no additional public comments on this or any other matters at this time.

Correspondence:

Letter from Mark Perry indicating the Block Party Fundraiser was a huge success

Letter from Jeff Tennent thanking the TB for their direction in solicitation of food at the town park

Letter from Eric Karner, Padanarum Road resident, regarding roadside clearing

Letter from NYS Unified Court System indicating they are working on a project to improve the local court system; security suggestions included

Letter from Lake George Kayak Co. requesting use of Veterans Park on July 13 and July 20, 2007 to conduct a kayak challenge course

Letter from Bob Phillips requesting permission to use Rogers Park to take members of Double H Staff to Black Mountain Point

Letter from John Gaddy regarding roadside clearing

Correspondence from APA with a notice of complete application for a large activity on Skye Farm

Notice of major project completed application from Richard and Lynn Kudlack in NW Bay area

Indications from Green Island Associates and the Sagamore for renewal of their liquor licenses for Brown Stand Up, Club Grille, Veranda Stand Up and Trillium

Correspondence on the receipt of the Town of Bolton's compliance for the SEQR violation

Letter from NYSDEC regarding ending burning at transfer stations

Referrals from Zoning Enforcement Officer / ZBA / BPB:

Timothy Harrington, 4 Forbidden Forest Lane, [156.00-2-28] extensive tree clearing without permit - BPB recommendations

Supervisor Gabriels said that the TB members received Mitzi Nittmann's report indicating that there has been no maintenance activity so far this year. Counsel said that there is a planting plan that exists and is being reviewed by Mr. Harrington and Atty. Stafford, to be presented at the next TB meeting.

Discuss Code Enforcement finding re: Jacoba Barboza and expansion of structure without permit in 1999

Mitzi Nittmann said that Jacoba Barboza said she has a small non-conforming barn on the north property line she says was built in 1992. Barboza also told her that the two barns that had been expanded (one without any formal permit process and one with a partial permit process) were both expanded in 1999 and the reason she didn't get a permit is because she had her horses stored at Laura Saffer at that time. Barboza said that she had seen a letter from the Zoning Administrator to Laura Saffer that no permit was required. Mitzi Nittmann said that she found no copy of the referenced letter in Saffers file, they had permits for all of their barns and the only letter in that file was from Mr. Saffer to the Zoning Administrator saying that when he went to Warren County to get his building permit from them, Warren County said that no permit was required. She is not sure how Mrs. Barboza came to the fact that she didn't need a permit when she had gotten them for the other two barns. Counsel said that it is indeed true today that if you were to call the Warren County Building Inspector Office for Code Enforcement, inquiring if you need a permit to build a barn, you I be told no, you need no permits at all, so people without clarifying their question get the answer that it is okay to expand a building without a permit. He added that if you precisely state the question if a building permit under the NYS Building Code to build a barn for agricultural purposes, that would be a correct question and the answer would be no you do not, but it doesn't absolve any responsibility to comply with the Zoning Office in the Town of Bolton. Counsel

said that it is possible that reasonable people understanding the process are often misled. Supervisor Gabriels asked if they have tried alternative remedies in this matter and Mitzi Nittmann said that they haven't gotten that far. Councilman Saris asked about the setbacks, as the barn is about 10 years old and there seems to be a gap. He continued by saying that preexisting nonconforming predates the ordinance, but while this doesn't predate the ordinance it does predate the statute of limitations and asked if it then enjoys the same status as a preexisting nonconforming structure. Counsel said that it is not a perfect fit and does not need an answer tonight. Councilman Saris said that he feels that the TB should find an answer to this type of situation so it can be dealt with if it presents itself in the future. Counsel said that when some municipalities are confronted with this they have chosen to have the owner bring it into compliance, other municipalities just don't prosecute them. There are municipalities that prosecute them vigorously and he would like the option for Mitzi Nittmann to sit down with the property owner to find out if they can create a plan to bring it into compliance. He said that it might need a variance and probably some certificates of compliance. The TB members asked Mitzi Nittmann and Counsel to proceed.

RESOLUTION #117

Councilman Maranville moved, seconded by Councilman Andersen to adjourn as the Town Board and to convene as the Local Board of Health. All Favorable. Motion carried.

Board of Health/Water Commissioners:

Septic Variance - Lynch (TMN 171.07-2-10) - Elgin system on lot less than 20,000 square feet - Sewerage Disposal Ordinance Section 3.020(c) within Juniper Hills

Dan Ryan, project engineer, representing Donald Lynch, said that they are here to discuss a regulation requirement in the sewage regulation for Bolton which prohibits lots less than 20,000 sq. ft. from having a well and a private sewage system on site and the question is not whether a sewer system is allowed, but a combination of the well and sewage system on such a small lot. He added that they are not here tonight to talk about neighborhood disputes, character of landscape, clearing, property values or traffic flow. He requested the TB limit the discussion to the affect of allowing a lot less than 20,000 sq. ft. of having a well and sewage system as proposed.

Supervisor Gabriels said that correspondence was received from Peter Lynch on the matter and also received was a letter to Zoning Administrator Pam Kenyon from Town Engineer Tom Nace saying that the requested variance is reasonable and that the proposed septic system and well will meet all other aspects of the applicable codes.

Peter Lynch asked that his letter addressed to Zoning Administrator Pam Kenyon become part of the record and said that the ordinance is promulgated not only on local law, but incorporates the provisions of the NYSDOH, it finds that when there are conflicting provisions, the most restrictive should apply, so in this regard, the NYSDOH is more restrictive than local law, so by the terms of the sewer ordinance itself, the Town of Bolton Sewer Ordinance incorporates the provisions of state law. He added that Dan Ryan has designed the system in accordance with state law and Town Engineer Tom Nace has determined it is an appropriately designed system and if the TB is questioning if the benefit derived by the property owner is reasonable, they can account to the fact that they have made every effort they could to see if they had an alternative by reaching out to the neighboring association and offering to pay to become part of the system, but they were rejected. Peter Lynch said that without granting of the variance, they would be deprived of any residential use of the property, which they feel is a real hardship and conversely the use of the engineered system will not have any affect on neighboring property owners. In addition, he said that they are asking the TB to look at this from a common sense point of view. They are not looking to be a bad neighbor and they just don't have any other way to build their home. Peter Lynch said that from the NYSDOH regulations and an engineering perspective this is the most appropriate system design

for the septic. They know the sewage ordinance has been in existence for quite a while, but it does incorporate all the provisions of state law and because the state law system is actually more restrictive as applied to this lot, certainly that is a considered factor weighing toward the granting of the variance to allow a properly designed engineered system.

Supervisor Gabriels said that the comments of concern from the public on the private well issue addressed at the last meeting also would apply.

Hugh Roberts, Juniper Hills resident, said that he been asked by the Juniper Hills owners to speak on their behalf. He said that the majority of the 34 owners oppose the variance application. He added that last month they appeared opposing the request and this is a 10,000 square foot substandard lot with no public road front right in the center of their community. He continued saying that cutting all the trees on this lot is clearing the lot and will eliminate the natural buffer, alter the environment, change the character of the neighborhood resulting in diminished appeal and adversely affecting property values. He said that the applicant proposes to remove all the mature white pines on the site, which is a problem. Hugh Roberts then quoted a letter dated April 30, 2007 from the applicant to Zoning Administrator Pam Kenyon regarding tree removal, saying that "...all the professionals have indicated to me that once these trees have been removed, the remaining trees would be seriously compromised and weakened by soil movement. They also indicate that they would become a serious risk for falling. Due to the extreme height of these trees, it is inevitable that they would fall outside the boundary of my property. This would cause serious risk and damage to other personal safety and property." He asked that the TB make a decision that is right for over 20 families in Juniper Hills, not what is right for one family. Hugh Roberts asked Juniper Hill owners in attendance in opposition to the application to stand up. Supervisor Gabriels said that the record should indicate that there were a considerable number of Juniper Hills property owners in attendance and that the TB takes Hugh Roberts at face value that there are other Juniper Hills property owners not in attendance who are also in opposition to this proposed variance.

Patrick O onnell, said that his primary residence is in New Jersey and the reason he comes to Bolton is to be able to utilize Lake George and to be able to go in the water. He added that the area has a reputation of a lake that wants to keep itself clean and you want the water to be drinkable, usable, enjoyable and safe. Patrick O onnell said that he doesn't think one individual house would destroy the lake, but by allowing this type of variance to go through, it opens the door for more variances and more houses to be built. He added that there are a lot of intelligent people who spend money who want to keep this kind of thing from happening and from Lake George being destroyed. He said that he hopes the TB takes that into consideration.

Supervisor Gabriels said that so far the Lake George community has been singularly successful in trying to preserve and protect Lake George. He said it is a very serious matter. Supervisor Gabriels added that the TB has taken efforts to continue to preserve and protect Lake George, but he doesn't know the extent to which this issue could be considered in terms of drinking water from Lake George, because of its distance from the lake and the statements from the engineers before them. He added that every variance is considered on it own and doesn't set precedent for other activities in the future. While the NYSDOH has a rule and regulation and it would apply in some other situations/developments in the Town of Bolton, he gets the sense this is somehow the exception that this 20,000 sq. ft. limitation may not particularly apply and Town Engineer Tom Nace has recommended to the TB that this is an approvable variance.

Diane Urbano, adjoining property owner, said that her primary residence is in Connecticut and when they were looking to buy their property, they knew there was a lot next to them, but under the regulations they needed to abide by, they realized the lot was unbuildable, so they decided to purchase their property. She said that she feels that there is a person who owns a lot who needs a variance who could have built it under the old rules but that time lapsed versus a person right next to it who had to abide by

those regulations. She said that the variance is something that ought not to happen, because it has never happened anywhere else in town and it would open doors for other people to do the same. She added that she is concerned in how the building will actually occur. It is a very small site and the trees are very large. She said that she has no idea where the trees will fall and asked the TB to consider these concerns. Supervisor Gabriels said that he understands the trees falling and it is an issue, but it is not an issue pertaining to the septic variance in front of the TB as the Local BOH.

Dan Ryan said that in reviewing the NYSDOH regulations, Appendix 74 has a statement that is similar to the Bolton regulation that states, where individual water supply and sewer systems are to be installed on a single lot, the minimum lot area should be 20,000 sq. ft and Appendix 74 that the NYSDOH currently enforces is for approval of realty subdivisions, so to look at this project as a subdivision approval would be a step in the wrong direction. He added that he can determine what the intent of the law adopted by the Town of Bolton was at that time and it is a striking similarity and it seems to be obvious that the intent may have also been to comply with subdivision regulations in the Town of Bolton similar to the NYSDOH requirements. Dan Ryan continued by saying that it makes sense if you could only imagine a subdivision being proposed with 20,000 sq. ft. lots each with their own well and sewage system, it is conceivable with small sites and a higher density that cross-contamination certainly is possible and it does make sense that regulation does apply in particular instances where high density multiple lots are proposed. He added that in looking at this particular lot as an individual instance, contrary to this regulation intent, it appears that there is very limited or negligent impact by having the well and sewage system on this lot and the reason for that is because you are surrounded by 45 acres of relatively undeveloped land with only two adjacent properties surrounding this lot which are supplied by municipal water, thereby reducing risk further that this particular sewage system could have any kind of impact on the potable water for those areas. He said that the density of wells and sewage systems is substantially less in this area, thereby providing adequate protection to the surrounding properties in the vicinity. Dan Ryan added that this project complies with all sewage regulations for the NYSDOH for setbacks, he thinks the 20,000 sq. ft. requirement was intended for high density areas with multiple buildings and this is a two-bedroom home on a single lot with relatively low impact by surrounding properties due to the density or lack of in the surrounding vicinity. He noted that regarding access to the lot, his client does have a right-of-way, which predates Juniper Hills and there is no consideration of that in the sewage determination. Dan Ryan also noted that the system is greater than 1,000 feet from Lake George, so there will be relatively low or no impact on Lake George.

Supervisor Gabriels asked if it is correct that the septic system is designed for a two-bedroom house and Dan Ryan said yes, it is two bedrooms and in the future there is no ability to expand because of the limitations of the subdivision. Supervisor Gabriels asked if even though under current law there is no ability to expand because of the limitations of the site if it would be within the TB authority to impose a limitation on any future expansion of this. Counsel said yes. Dan Ryan said he understood and that would be acceptable.

Councilman MacEwan asked if anyone in attendance had any objections to the type of system being proposed. There were no comments of public in attendance regarding objections to the proposed system. Dan Ryan said that he thinks it would be difficult to object to systems that are approved on a regular basis by Bolton and NYSDOH.

Councilman Saris asked if there is a standard and Counsel said yes, there are findings to judge the variance like the ZBA did. Supervisor Gabriels read the reasons for the needed variance from the Planning Office into the record. Councilman Saris said that based on that, all of the standards have been met, the Town Engineer agrees with that and while there are people in opposition to the granting of the variance, it doesn't seem to him that the reasons of opposition are appropriate for the Local BOH to consider, because the standards have been addressed. Councilman MacEwan said that he thinks the applicant's request is reasonable.

RESOLUTION #118

Councilman Saris moved, seconded by Councilman MacEwan, for the TB to approve the septic variance for Lynch tax map #171.07-2-10 as requested based on the standards met for a two-bedroom home, with the understanding this should always remain a two-bedroom home. All favorable. Motion carried.

Counsel suggested that the limitation of two bedrooms is one path to assure the house won get any greater, but so is the limitation of the number of bathrooms. Councilman Saris said that he doesn't feel the need to add that to the motion, because additional occupants don't tend to stay in bathrooms. Counsel said that he wanted to speak for those who have spoken in public hearings saying that there was a bathroom, then a master bathroom then a Jacuzzi and it's up to the TB to determine functional standard. Dan Ryan said that a Jacuzzi would require an increase in sewage size like a bedroom, so that would be prohibited.

Water District - Town Counsel's proposed resolution to Byers and neighbors private water line and manifold - all within water district

Supervisor Gabriels gave an overview of the situation and said the question is who pays for the water that is bled in the wintertime. Counsel said he drafted a letter for resolution to the matter and the TB has to decide if that resolution is suitable. Supervisor Gabriels said that the resolution reflects that Mr. Byers does not wish to pay for the water for bleeding purposes and therefore, he must disconnect fully from municipal water service, physical disconnection so there no possibility of hooking back on and Mr. Byers still would owe any applicable water rates for water used up into the point of disconnection including last year and any prior outstanding bills. He added that it should be modified/clarified that if the TB allows this discontinuation, since the property is still in the water district, the property owner is still obligated for the \$100 per year annual assessment. Councilman Saris said that he finds the resolution quite reasonable. Counsel said that eventually by process of elimination, take the amount of water used for the bleeder and divide it by fewer responsible parties, notably, if one or two remain on the bleeder, they are sharing 100% what was once paid for by seven or eight. Supervisor Gabriels said that it is a problem because it is a private waterline for which there are no existing agreements, understandings or contracts about how to allocate the costs.

Deanne Rehm asked if, for future reference, any tax (ex. property values, etc.) should be used to pay some or a portion of water costs since Mr. Byers is still in the district. Counsel said yes, his property is still responsible because he is in the district, even as a non-user. She thinks the TB should address that so Mr. Byers is clear that it is not just \$100 and he is not out of the district, so any future cost for upgrades to our system he will have to bear. Counsel said that it would be in his letter. The TB members asked that Counsel proceed.

RESOLUTION #119

Councilman Maranville moved, seconded by Councilman Andersen to adjourn as the Local BOH and reconvene as TB. All favorable. Motion carried.

Reports:

Police Department:

Miles patrolled: 2,829 miles. Fuel used: 260.0 gals. Officers investigated 1 burglary, 1 larceny, 2 illegal dumpings, 2 noise complaints, 2 loss of personal properties, 2 health and welfare checks, 1 mentally ill person, 5 property damage of motor vehicles, 1 personal injury on motorcycle, 2 motorist assists, 3 parking complaints, 2 boat complaints, 7 vehicle/traffic complaints, 14 miscellaneous complaints, 3 court

details, 1 parade detail, 8 EMS assists, 4 NYS Police assists, 1 Warren County Sheriff assist and 1 NYS ENCON Police assist.

Justice Department:

A/R for June 2007: Judge Harry Demarest - \$4,340. Judge Edward Stewart - \$4,100. Total: \$8,440. There is an itemized list located in the court breaking down the amounts.

RESOLUTION #120

Councilman Maranville moved, seconded by Councilman Saris, for the TB to declare the old tax maps surplus. All favorable. Motion carried.

Councilman Saris

Clerk's Office:

Total Local Shares Remitted: \$21,222.12, Total Non-Local Revenue: \$414.30,
Total State, County and Local Revenues: \$21,636.42.

Sewer Department:

The Plant took in 6,566,641 gals of wastewater for a daily average of 218,888 gals, all beds are dry except for one. No violations. New pumps at new station are working great and they are a big improvement. Old dry sludge is all gone.

Supervisor Gabriels said that the new pumps at the station were funded through the Warren County sewer project, which are federal funds provided to the county from Senator Moynihan and the late Gerry Solomon. CT Male has submitted to the EPA the next round of proposed additions to the sewer station, which include; the installation of a stand-by generator, a replacement of chains and other parts in the secondary clarifier, the removal of stone media in the trickling filter and the installation of PVC media in the trickling filter as well as the replacement of the rotary distributing arm in the trickling filter, with estimates in the magnitude of \$600,000.

Parks Department:

All mowing and minor maintenance of outside cemeteries has been completed. They put down sod at Veterans Park and repaved the entryway side by the collection booth at Veterans Park. Note was made of vandalism at Rogers Park and Councilman Andersen has addressed the matter with Sgt. Neumann. They also replaced a tree by Bolton Beans that needed to be replaced a second time due to a car backing onto the first one. Replaced broken dock post at Rogers Park, assisted with Arts & Crafts fair for upcoming weekend and continued normal maintenance.

Recreation Dept.:

No formal report, but director said that she was down to the wire, but all programs are in place and she has a full crew of employees and attendees for daytime programs. Councilman Andersen said that he gives her credit for her efforts. He also noted that he understands the frustration with having to constantly remind the Parks Dept. about tennis nets, only to have them put up hour before they were needed.

Councilman Andersen said that as an aside, the TB has to address the issue of relocating the Parks Dept., as the building is literally crumbling. Discussion ensued of possible locations. TB members agreed to have a workshop on the issue on Wednesday, 07/11/07 at 5:15pm at the Town Hall.

Supervisor's Report:

Total receipts: \$327,247.36 and Total Disbursements: \$682,772.71.

Warren County: Social Services building is pending. Gaslight Village purchase by Warren County, Lake George Village and the three E is proceeding. Regarding voting machines, there is a requirement to have more modern electronic voting machines, which NYS does not have, does not produce and hasn't selected, however, there is a rule on the books in Albany that says after September 1st, if you don't change the rule, you can use the voting machine, meaning if the rules don't get changed in Albany, we'll be back to using paper ballots.

Stormwater: none

Unfinished Business:

Authorize revised resolution to expend \$5,500 for a used truck for the Parks Dept. for watering rather than the \$5,000 originally approved

RESOLUTION #122

Councilman Andersen moved seconded by Councilman Saris to authorize the modification of the originally approved resolution to now allow expending \$5,500 for a used truck for the Parks Dept. for watering. All favorable. Motion carried.

Substantial completion of Rogers Park retaining wall Supervisor signed 06/27/07

Supervisor Gabriels made note of the above listing.

Authorize Change Order #1 for new concrete cap with epoxy rebar for 35 feet on eastern edge of existing stonewall amount of \$4,800

RESOLUTION #123

Councilman MacEwan moved, seconded by Councilman Andersen to authorize Change Order #1 for Rogers Park wall for a new concrete cap with epoxy rebar for 35 feet on eastern edge of the existing wall in the amount of \$4,800. All favorable. Motion carried.

Authorize per meeting payment and mileage for BPB and ZBA members for training class

Councilman Maranville said that he thinks these board members should be compensated. Councilman Andersen said he thinks mileage and expenses should be reimbursed, but he's not sure about payment for time/attendance. Councilman Saris agreed. Additional discussion ensued as to rates of reimbursement. Deanne Rehm said that NYS puts out room, breakfast and dinner rates for each county each year and the Town may want to inquire with other communities to see if they are paying people to attend meetings.

RESOLUTION #124

Councilman Saris moved, seconded by Councilman Maranville to authorize reimbursement to BPB and ZBA members for mileage and expenses based on the county or state values. All favorable. Motion carried.

Action on Local Law #2 of 2007 amending 200-46B of Zoning Code pertaining to "cut & fill"

No additional comments of public in attendance.

RESOLUTION #125

Councilman Saris moved, seconded by Councilman MacEwan to close the public hearing on Local Law #2 of 2007 amending 200-46B of Zoning Code pertaining to "cut & fill". All favorable. Motion carried.

RESOLUTION #126

Councilman Saris moved, seconded by Councilman MacEwan to adopt Local Law #2 of 2007 providing for amendment of the Bolton Code Section 200-46 B (10). All favorable. Motion carried.

Discuss authorizing RFP (as drafted by Carl Schoder) for Conservation Park prospectively pending discussion on Thursday, July 5 meeting

This item was tabled to next month.

Consider entire new boiler proposal for entire Town Hall

Kathleen Simmes said that nobody had come to look at the situation and to her knowledge Highland Construction showed interest. She sent copies of the plans to Highland Construction. Councilman Andersen said that for the amount of money spent on the current system and how poorly it works; it is an embarrassment to the company that put it in. He added that the system needs to be taken out completely replaced and there should be a mechanical engineer review to redesign the system then take that proposal out to bid to replace it. Councilman Saris asked if a mechanical engineer would be considered professional services where the TB can just hire one and Counsel said yes. Councilman Saris said that he agrees the TB should solicit someone to evaluate the situation and draw up a set of plans for total system replacement. Councilman MacEwan agreed. Councilman Andersen said that he feels there is a need for a mechanical engineer who is licensed by the state to draw up the plans before it goes to bid.

RESOLUTION #127

Councilman Andersen moved, seconded by Councilman MacEwan to hire a NYS licensed mechanical engineer to draw up plans for total electrical system replacement in the Town Hall to then go out to bid. All favorable. Motion carried.

Award electric installation for the concession stand at Recreation Field lowest of three Mike Fitzgerald \$3,000 complete

Supervisor Gabriels said that in May the following three bids were received to run electricity by the gate at the recreation field to the concession stand and that of the three bids received, Mike Fitzgerald was the lowest at \$3,000 to complete the job.

RESOLUTION #128

Councilman Maranville moved, seconded by Councilman Saris to award the electric installation for the concession stand at the recreation field to the lowest bidder, Mike Fitzgerald in the amount of \$3,000 to install complete. All favorable. Motion carried.

Discuss Town reaction to private use of Town property without permission per Town Counsel Michael Muller letter of June 11, 2007

Supervisor Gabriels said that all TB members received a letter from Counsel regarding what the Town of Bolton policy should be regarding a private property owner using town property without permission for commercial purposes. Counsel said that the TB doesn't need to make a decision tonight and this is an outgrowth of litigation. He added that the town is obligated to do something about it. This is private property that three surveyors have concluded is indeed town property and a complicating factor is not simply negligence, but there are possibilities of persons who may injure themselves on the premises would seek remedy for their injuries from persons who are operators and the owners, which would be the Town of Bolton.

Councilman Saris said that since he is in the same business and it may be seen as a conflict of interest, he is going to recuse himself from discussions on this. Councilman Andersen said for the same reasons, he has to take the same position.

Further discussion ensued to clarify the situation. TB members asked Counsel to proceed in getting the party involved (Mr. Smith and his attorney) together for a meeting on the matter.

Pending Items: Reviewed and no action taken.

New Business:

Steve Budner needs exception to code requirement for SPR for temporary trailer while his new house is being built

Councilman Saris said that he assumes the trailer is going on Mr. Budner property, which is pretty secluded and he doesn't think it will cause an issue with the neighbors. He added that it is probably a year plus project and suggests a timeframe consideration. Councilman Andersen suggested an exception be granted for one year with the opportunity to return for renewal for a total of three one-year timeframes.

RESOLUTION #129

Councilman Andersen moved, seconded by Councilman Maranville to endorse the Town Supervisor in his execution of emergency powers to authorize the exception to the code requirement and allow Mr. Budner to have a trailer on his property as of 07/03/07 for one year renewable on an annual basis at July TB meetings with a cap of three years for the purposes of residency while a new home is being built. All favorable. Motion carried.

Discussion if all handicapped facilities require pre-SPR before being applicable

Counsel said that the Americans with Disability Act (ADA) was intended to be a superior law, where it cannot be prohibited from being implemented by state or local government, however, state or local government does have some reasonable rights to regulate it, but site plan review certainly does not prohibit it. He added that if he found the PB heading down that path of prohibiting something, he would

point out to them that it would really have to be approval or approval with conditions, so the ADA does not absolutely cramp local zoning requirements, hopefully they would work together to come to a solution in balancing these types of health and safety and disability requirements with local codes.

Councilman Maranville asked if there have been issues with ADA compliance and Counsel said no, in fact there was a situation where somebody needed a ramp put in real quick and the Town got it in and treated it as an undersized structure. Supervisor Gabriels said that individual provided Zoning Administrator Pam Kenyon with some information. Pam Kenyon said yes, as to what they were going to build and they kept it under 100 sq. ft. so it was considered a temporary structure.

Further discussion ensued on a current matter before the Town of Bolton regarding a ramp being put in to the second-story. Counsel said that the ADA has certain requirements on incline of ramps and he thinks the Zoning Administrator doesn't break the code, but bends over backwards and has remained entirely flexible on allowing what is needed and what the ADA might mandate as a compliance. Pam Kenyon said she be happy to meet with the gentleman regarding a plan. Counsel said that he would feel better if the Town didn't have a set policy about all ADA compliance is exempt from the code. Councilman Maranville asked if in the end the ADA supersedes local law and Counsel said yes. Pam Kenyon said that they try to figure out a way to do things like this within the code and she doesn't have the authority break the code or to not apply zoning, so they try to figure out a way to make it work within the code.

Resolution regarding competitive bidding and state contracts for Town fleet vehicle

Supervisor Gabriels said that there was no vehicle available through state contract so they did their due diligence by going out and looking at three similar vehicles.

RESOLUTION #130

Councilman MacEwan moved seconded by Councilman Maranville that competitive bidding was complied with and the bid was awarded under state contract. The vehicle was not available. The second bid was also not available so all bids were rejected. All favorable. Motion carried.

Kathleen Simmes said that when the Town of Bolton went to order under state contract the contract was closed so the Town of Bolton couldn't order anymore. She said that the Town of Bolton then went to the second bidder who told them he would provide a vehicle better than what was on the state contract for the same amount of money and it would come faster. When they called the second bidder he told them the vehicle hadn't even been built yet, which was contrary to what he told them on the phone. They couldn't go with the third bidder, as his price was higher than the other two, so they were told it would have been illegal to do so. Supervisor Gabriels said that due diligence was done and that the other bids were rejected because they were unsuitable.

Approve \$20,164.50 for town fleet vehicle (Code Enforcement/Zoning Office and other employees as needed) for 4 cylinder 2007 Subaru Forester from North County Imports, due diligence has been performed and funds will be from surplus

RESOLUTION #131

Councilman MacEwan moved, seconded by Councilman Maranville to authorize spending \$20,164.50 from surplus for a 4 cylinder 2007 Subaru Forester from North Country Imports to be used as a town fleet vehicle. All favorable. Motion carried.

Reappoint David Rosebrook as Town sole assessor for a third six (6) year term (10/01/07 09/30/13)

RESOLUTION #132

Councilman Maranville moved, seconded by Councilman Saris to reappoint David Rosebrook as the Town of Bolton sole assessor for a third six (6) year term (10/01/07 09/30/13). All favorable. Motion carried.

Appoint Joel Jacko as director of BLDC

Councilman Andersen asked if Joel Jacko has any business experience. Supervisor Gabriels said that he is not sure, but Joel Jacko is a retired teacher and if the TB members are not satisfied, he needs more names of non-elected officials for the BLDC board. He added that this will not limit them in any way shape or form to the number of directors on the BLDC.

RESOLUTION #133

Councilman Saris moved, seconded by Councilman MacEwan to appoint Joel Jacko as director of the BLDC for a three-year term, or whatever term is established. All favorable. Motion carried.

Authorize Town Counsel to begin preparation of Statutory Installment Bond (five years fixed interest) for Highway Tandem Truck - \$159, 976

RESOLUTION #134

Councilman MacEwan moved, seconded by Councilman Saris to authorize Town Counsel to begin preparation of Statutory Installment Bond (five years fixed interest) for Highway Tandem Truck - \$159,976. All favorable. Motion carried.

Authorize Town Counsel to begin preparation of Statutory Installment Bond (three years fixed interest) for Highway Ford Super Duty Truck - \$24,353

RESOLUTION #135

Councilman Saris moved, seconded by Councilman Maranville to authorize Town Counsel to begin preparation of Statutory Installment Bond (three years fixed interest) for Highway Ford Super Duty Truck - \$24,353. All favorable. Motion carried.

Noise permit application from Kristofer Covey at the Bixby Estate on Saturday, July 14, 2007 from 7:00pm to 11:00pm for a four (4) musician acoustic band

Councilman Saris said that a Clay Island resident contacted him asking that it not be extended to 11:00pm. Supervisor Gabriels said the normal is 10:00pm.

RESOLUTION #136

Councilman MacEwan moved, seconded by Councilman Saris to grant the noise permit to Kristofer Covey at the Bixby Estate on Saturday, July 14, 2007 from 7:00 pm to 10:00 pm for a four (4) musician acoustic band. All favorable. Motion carried.

Noise permit application from Ed Corcoran, Jr. at South Trout Lake Road on Saturday, August 4, 2007 from 1:00 pm to 12:30 am for 3-5 musicians per band

Ed Corcoran, Jr. said that he is only requesting the permit until 12 midnight, but it usually doesn't go past 11:30 pm. Councilman Saris said that it never been a problem in the past. Ed Corcoran, Jr. said this is the tenth year they've done this.

RESOLUTION #137

Councilman Saris moved, seconded by Councilman Maranville to grant the noise permit to Ed Corcoran, Jr. at South Trout Lake Road on Saturday, August 4, 2007 from 1:00 pm to 12:00 midnight for 3-5 musicians per band. All favorable. Motion carried.

Discuss new sidewalks from Sagamore Road north to U. S. Post Office per Buddy Foy requests

Supervisor Gabriels said that Buddy Foy has come in for a couple of years about the possibility of putting in sidewalks from Sagamore Road north to the post office. He said that Mr. Foy owns some of the property in that area and is willing to do something with his land. Supervisor Gabriels said that he doesn't know who would own the sidewalks, be responsible for maintenance of the sidewalks after they've been put in or what liability attaches to that. Councilman Andersen said that he is not sure of the state right-of-way there and he envisions the Sagamore property and Jon Maranville will have some resistance. Supervisor Gabriels said that he heard Jon Maranville might be willing to work with them. Councilman Andersen said that he is sure there is a lengthy legal process to do this.

RESOLUTION #138

Councilman MacEwan moved, seconded by Councilman Maranville to table the sidewalk matter. All favorable. Motion carried.

Crosswalk across Route 9N at the ball field to the post office request has been submitted to NYSDOT

Supervisor Gabriels said that stretch of the Town of Bolton is very problematic for crossing the street. TB member consensus was that they would like to write a letter requesting a crosswalk be installed. Councilman Andersen said that he thinks the Town of Bolton should write a letter asking NYSDOT to give a speedy answer to their review.

Lake George Kayak Co. requested use of Veterans Beach for challenge Course on Friday, July 13, 2007 from 10 to 11am for 14 participants and on Friday, July 20, 2007 from 1:30 to 2:30pm for 14 participants to set up and launch kayaks for a race

TB members agreed to grant the request as shown above.

Bob Phillips seeks permission to depart and return counselors and staff of Double H from Rogers Park between 9:30 and 11:30am and return between 4 and 6pm, 6-8 vans to park in Dula Parking lot, seeking boats to transport 80 people to Black Mountain Point on Thursday, July 26, 2007

TB members agreed to grant permission sought as shown above.

Consider resolution on NYS property Tax Crises and urge passage on NYS Property Taxpayer Protection Act draft & memo from James Tedesco

No TB member comments on this item.

Approve Transfers as Provided per Donna Boggs

FROM TO AMOUNT

GENERAL FUND

Contingency 19904 Beautification 85104 \$2,400.00

Contingency 19904 Parks Water Truck 71102 \$5,500.00

Surplus Code Enforcement 86642 \$20,165.00

Surplus Parks Retaining Wall 71102 \$4,800.00

RESOLUTION #139

Councilman MacEwan moved, seconded by Councilman Maranville to approve the July 3, 2007 transfers as presented by Donna Boggs. All favorable. Motion carried.

Public in Attendance:

Deanne Rehm asked if the NYSDOT provides the stands for the middle of crosswalks that say, YS Law requires you stop for pedestrians, and said that she knows people don't stop and if you bring it to their attention they may be more inclined to stop. Supervisor Gabriels said it is an excellent idea and asked Donna Boggs to follow-up by seeing if NYSDOT will provide the signs and if not, for the Town of Bolton to buy two signs to be put on either side of the Town of Bolton.

There were no additional public comments on any matters at this time.

Approve payment of Lake George Watershed Conference bills:

Voucher submitted by Dave Decker 07/03/07 at \$7,813.93 for June 30, 2007 pending approval by K. Millington (DOS) and pending availability of funds payable from NYS. For payment under LG Plan contract C006506.

RESOLUTION #140

Councilman Saris moved, seconded by Councilman MacEwan to approve payment of Lake George Watershed Conference bills as per the voucher submitted by Dave Decker 07/03/07 at \$7,813.93 for June 30, 2007 pending approval by K. Millington (DOS) and pending availability of funds payable from NYS. For payment under LG Plan contract C006506. All favorable. Motion carried.

RESOLUTION #141

Councilman Maranville moved, seconded by Councilman Saris to pay the town bills. All favorable. Motion carried.

Executive Session: None

Councilman Andersen moved seconded by Councilman MacEwan, to adjourn the regular meeting at 10:20 pm. All favorable. Motion carried.

Minutes transcribed by: Respectfully submitted by:

Jennifer Torebka Kathleen Simmes

Recording Secretary Town Clerk

07/03/2007