

STATE OF NEW YORK
COUNTY OF WARREN
TOWN OF BOLTON

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

Absent: Councilman Rob MacEwan

PUBLIC HEARINGS: 2005 Town of Bolton Preliminary Budget

Supervisor Gabriels opened the public hearing at 6:30 for the 2005 Town of Bolton Preliminary Budget. He pointed out that the bottom-line figures of the amounts to be raised by taxes for the General Fund and Highway Dept are unchanged from 2004, therefore no increase in the local Town taxes. However County taxes are going up, due in part to increases in Town employees' benefits, such as costs associated with the State retirement system and health insurance.

Public in attendance:

☐ Tony Hall of Federal Hill Road asked what the impact of this year's budget would be on local taxpayers and if property taxes would go up, if not, why? Supervisor Gabriels: in early spring every property owner in Bolton received a statement from the Assessor (regarding the revaluation) indicating what their tax would be if there was no change in taxes the following year due to the increase in assessed valuation. The Town decided to keep the tax rate the same mainly due to the significant increase in assessment throughout the Town. Supervisor Gabriels indicated that one of the ways they were able to achieve no rise in taxes was to increase the estimated revenues from mortgage tax. The Town anticipates a slight increase (1.9%) in sales tax revenues in 2005.

☐ Michael Cummings of Coolidge Hill Road stated that he has lived here full-time for 2 years and feels there is a lot of garbage on the roads in Town, specifically citing Coolidge Hill and Route 9N. He asked if the Town could post more signs or raise fines. Supervisor Gabriels felt the Town could raise fines, but catching people littering would be difficult. Mary Owens of Hondah Loop responded by suggesting people pick up garbage when they see it.

☐ To clarify the budget issue, Councilman Saris explained that the bottom-line figure is the amount generated from taxes. Property valuations determine how that burden is distributed among the public, and this has changed (from 2004) because the valuations have changed. The sum total being generated has not changed, although some property owners may find themselves paying more, some less, based on their new assessment.

Tony Hall asked if the tax rate this year was different than last year's. Supervisor Gabriels explained that as the total value of the Town increases, the rate drops, if the taxes remain the same. He noted that last year, prior to the reevaluation, the tax rate was \$1.22 per \$1,000, whereas now it is approximately 72¢ per \$1,000. In summary, Supervisor explained that as the total value of the Town increases, the tax rate drops, again if the taxes remain the same.

Councilman Saris added that while the tax rate has decreased, some people's property has appreciated to a greater extent than the tax rate has gone down, so they still find themselves paying more because of the way their property value has appreciated. In the same respect, other people, even though their reevaluation is higher, find themselves paying less in taxes, because the decrease in the tax rate was greater than the appreciation of their property.

The public hearing was left open.

REGULAR MEETING

Supervisor Gabriels called the regular meeting to order at 7:02 pm.

Pledge of Allegiance – Counsel Michael Muller

Announcements:

- The referendum for the Town to purchase 56.4 acres of vacant land off of CR11 was defeated on Election Day by a vote of 592 to 300
- 1,175 out of 1,643 eligible voters voted in Bolton, not including absentee ballots
- There is a public hearing scheduled at 6:30 pm on Tuesday, December 7, 2004, for proposed amendments to the zoning ordinance
- The County fish hatchery is stocking about 300 fish (brook and rainbow trout) in Conservation Park pond this Friday
- The Water Dept will be flushing hydrants beginning next week
- The Town submitted applications to FEMA and SEMO to be considered for inclusion in the disaster period associated with the two significant rainstorms that hit Bolton in August
- Meal site menu available
- The Town of Bolton has 2 website addresses: town.bolton.ny.us and townofboltonlanding.com

Public in attendance:

- No comments

Correspondence:

- Letter of concern from Andrew Rohs of Thunderbird Road that the road sign is missing
- Letter of thanks from Mrs. Tekmitchov for the Town's help correcting a recent water problem near her hair salon
- Notice from the County that it's running short on flu vaccines
- E-mail from Russ & Marina Skea, thanking the Town for repairing the entrance to Edith Lane (off Coolidge Hill Road), which was damaged as a result of the County paving

- Adjacent landowner notice to the Town re: Martin Smith variance (parcel id# 170.00-1-29)
- Notification from NYS Division of Housing and Community Renewal re: low income housing programs
- Notice from the Housing Trust Fund Corp re: availability of state and federal funds
- Article from Jack Robinson re: the city of Glens Falls' effort in preserving a fireplace at a historic manor, which Mr. Robinson would like to see done at the Conservation Park facility
- Town is in receipt of the quarterly franchise check from Time Warner in the amount of \$7,252.89
- Letter of concern from Chris Navitsky of the LG Waterkeeper Program re: the Wright's Farm Subdivision revised stormwater plan
- E-mail from Niagara Mohawk re: access to the internet through electric grid lines
- WC Tourism's winter events/activities schedule
- Letter of complaint from Sagamore condo owner C Warren Rickels re: excess water bills he received
- Notice from APA re: Dr. Brandow's pending subdivision application for property off Trout Lake Road (tax parcel #s 185.00-3-25 thru 30)
- Letter from Jeff Tennent suggesting the Town ban double wide trailer developments
- Copy of Hudson Headwaters Health Network (HHHN) minutes of their last meeting
- Program updates from Cornell Cooperative Extension
- Notice of upcoming planning and zoning board workshop meetings
- Notice from LGA soliciting volunteers to riprap Rush Island
- Letter from Julie Martin of LGA encouraging the Town to complete the stormwater project on Finkle Brook
- APA workshop scheduled for Tues, Nov 9 from 6:30-8:30 pm at the Bolton Town Hall re: APA wetlands jurisdiction
- Letter from Meredith McComb re: APA proposed changes to shoreline restrictions, involving required septic inspections
- Notice from WCPB indicating a favorable recommendation on the proposed changes to the Bolton zoning code
- Letter of concern from John Gaddy re: Town's roadside tree cutting policies
- Correspondence re: Greenmeir-Hubbell illegal subdivision, which is still pending
- Letter from NYS Office of General Services re: providing playground equipment under state contract
- Letter of thanks from Dr. Rugge of HHHN for the Town's support in HHHN's renewal application for federal funding

Reports:

Councilman White:

ASSESSOR:

- The Town won the Stewart Jones action. Counsel is handling 4 new Article 7 petitions, and the ongoing case with Rainbow Beach remains unsettled. New computer installed. Mr. Rosebrook attended WC Assessor Association meetings, at which the County's GIS specialist

announced that the upgrading of the GIS software will be very expensive. Mr. Rosebrook attended a special meeting with Senator Elizabeth Little re: pending legislation.

WATER DEPT:

☐ Water made: 7,058,809. Daily average: 227,703 gals. Pond level is even with spillway. The Dept assisted DOT at the south end of Town. New fire hydrant installed near Von Tek's Hail Salon. Repaired leak in waterline near Judge Stewart's house. New 6" service line installed in Cobblestone Subdivision (off Braley Hill Road), which is an extension of the water district. Manhole at the Rec ball field was flooded and had to be pumped out, a recurring situation that needs to be addressed.

JUSTICE COURT:

☐ A/R: Judge Demarest - \$4,535.05. Stewart - \$3,210. Total: \$7,745.05.

POLICE DEPT:

☐ Hours officers worked: White - 126, Howse - 71, Schroeder - 90.5. Miles patrolled: 1,841. Fuel used: 162.5 gallons. Officers investigated 3 criminal reports, 3 assists to motorists, 1 security alarm, 4 traffic summons, 4 parking tickets, 2 auto accidents, 2 domestic complaints, 4 court securities, 1 arrests for marijuana, 4 emergency medical assists, 9 misc complaints.

Councilman Saris:

TOWN CLERK:

☐ Total local shares: \$9,403.01. Non-local: \$1,449.24. Total state, county and local revenues: \$10,852.25.

HIGHWAY DEPT:

☐ Routine stormwater work and road maintenance was completed. The Dept is stocking materials and getting ready for the winter months.

SEWER DEPT:

☐ The Plant took in 4,800,090 gals of wastewater for a daily average of 154,842 gals. There were no violations at the Plant. Dept busy with routine maintenance and line cleanouts. Plant Operator Chet Dagles reports that there continues to be a serious problem with grease in the sewer line. In the upcoming year, the Town hopes to educate restaurants owners about their obligation to maintain their grease traps, followed by the Town implementing an inspection process.

INSURANCE:

☐ A meeting was held with Town employees and the Town's insurance representatives to discuss the increased cost of insurance premiums, but no significant cost savings options were realized.

Councilman Andersen:

PLANNING OFFICE:

☐ Mitzi Nittmann began as the new Code Enforcement Officer this week, and has already begun addressing zoning violations. Permits applied for: 8 certificates of compliance / 4 wastewater disposal systems / 2 variances / 2 site plan reviews / 2 subdivision / 2 stormwater permits. Miles traveled: unlisted. A/R: \$1,933.50. Outstanding issues: *Hubbell-Greenmeir illegal subdivision* - ongoing since 1995. Failed septic system in North Bolton ongoing since last year. Papers have been served on the property owners.

BUILDINGS & GROUNDS DEPT:

☐ Finishing fall clean-up and lining up winter projects. Crew was busy cleaning up from Halloween and Cabbage nights.

RECREATION DEPT:

☐ Many activities continue to be offered. Sign-up for Gore Mountain ski program is underway. Rec Dept kids and staff assisted with a community service project at Up Yonda Farms for Halloween.

- Supervisor Gabriels

SUPERVISOR:

☐ Total receipts: \$1,107,311.62. Total disbursements: \$720,200.30. County is preparing its budget. Stormwater: nothing to report.

Unfinished Business:

Counsel reported the following on the Rainbow Beach Association Article 7 tax certiorari issue: There have been communications between Mr. Beebe (representing Rainbow Beach Assoc), Mike Hill (representing Town of Bolton), Assessor Dave Rosebrook and Counsel. Counsel suggests that Messrs. Beebe, Hill and Rosebrook, Supervisor Gabriels and he meet to come to an agreement on the Town's defense.

Engineer Carl Schoder would like to meet with Town Board members at 1:30 on Friday to discuss alternatives for repairing/replacing the C&D ramp at the transfer station.

The following three items remain outstanding for the reasons noted:

- Alleged groundwater contamination at Donohue residence (parcel id# 171.19-1-10): Town awaits report from Town Engineer Tom Nace
- Repair of floating concrete pads at highway garage: Town awaits response on a proposal from Midland Masonry, to whom Mr. Nace's plans were forwarded
- Roof leaks at highway garage: Town awaits follow-up site visit by Contractor A. Ritz

New Business:

The Board received a letter from Bookkeeper Donna Boggs, and signed by other Town Staff, requesting the Board consider changing the health insurance payment schedule for current and future Town retirees from the Town paying 50% for the employee and 35% for their spouses, to the Town paying 75% for the employee and 75% of the spouses. She estimates this will cost the Town an additional \$7,000 in 2005. Councilman Saris noted that this has been an

ongoing discussion, which he supports, as a person's income decreases when they retire, yet expenses such as these tend to increase. He suggested the Board act on the matter. Councilman Andersen suggested this only apply to current employees, however if a policy is adopted and applies also to new employees, he asked that it include an option for the Board to change these terms if deemed necessary in the future.

RESOLUTION#245

Councilman Saris moved, seconded by Councilman White, to amend the budget to change the health insurance payment schedule for retirees in that they are responsible for 25% of their own insurance payment and 25% of their spouses' upon retirement. The unexpended balance in the 2005 budget will be increased to accommodate this expense, estimated at \$7,000. All in favor. Motion carried.

The Board, based on an informal survey that indicated 7 employees opted to keep the current health insurance plan and approximately 4 opted to switch, chose to continue with the current plan.

Supervisor Gabriels met with Doreen Brown, Treasurer of the Bolton Rescue Squad, who expressed concern that the Town cut \$2,000 out of the Rescue Squad's administrative budget. This amount had not increased from the 2004 budget, and the Squad is asking the Board to consider putting it back in, as they use this money for audits, postage for fundraising literature and other expenses.

RESOLUTION #246

Councilman Andersen moved, seconded by Councilman Saris, to reinstate \$2,000 from the unexpended balance to the Rescue Squad for administrative costs, requesting the Squad provide a breakdown of how this money is spent. All in favor. Motion carried.

From the public, Doug Houghton asked the Board to explain the highway revenue on page 27 of the preliminary budget, which Supervisor Gabriels explained.

Tony Hall asked what the Town's total cost was for the 2005 budget, i.e. how much the Town was spending, and what that amount was in 2004. Supervisor Gabriels did not have the exact figures. Mr. Hall will get the information from the Town Clerk's office.

RESOLUTION #247

Councilman Saris moved, seconded by Councilman White, to close the public hearing on the 2005 Town of Bolton preliminary budget. All in favor. Motion carried.

RESOLUTION #248

Councilman Andersen moved, seconded by Councilman Saris, to adopt the 2005 Town of Bolton preliminary budget as amended. All in favor. Motion carried.

RESOLUTION #249

Councilman Saris moved, seconded by Councilman Andersen, to adopt the following resolution:

WHEREAS, the environmental health and overall quality of life in the Lake George Watershed area is critical to the social and economic well being for the Town of Bolton, Warren County, and the region in general, and

WHEREAS, the protection, preservation and proper management of water quality within the basin is an essential ingredient to maintaining this revered natural resource as a key to the social and economic vitality of this region, and

WHEREAS, the Town of Bolton has been an active participant in developing the critically important water quality management plan, and

WHEREAS, the adopted document, entitled, "Lake George – Plan for the Future" identifies numerous recommendations and actions as being critical to pursuing the objectives of preserving, protecting, and enhancing the water quality throughout the Basin, several of which will require the engagement of contract services to execute these recommendations, and

WHEREAS, the State has recently awarded a grant in the amount of \$250,000 to the Village, on behalf of all participating municipalities in the Lake George Watershed Basin, that carries with it the requirement of a local match, which will take the form of services in kind, as well as matching funds, and

WHEREAS, the Town of Bolton wishes to contribute its fair share, along with other municipalities throughout the Basin to this critically important program so as to be able to take advantage of the aforementioned State funding,

NOW, THEREFORE BE IT RESOLVED, that the Town of Bolton confirms it shall provide an amount of \$7,000.00 to this endeavor, which funds will be forwarded to the Village of Lake George, administrator for this particular grant program.

All in favor. Motion carried.

Supervisor Gabriels explained that highway employee Steve Breault is requesting to be paid for 2 weeks' vacation that he will not be able to use before his anniversary date on 01/01/05, at which time he will be eligible for another 5 weeks' vacation. Mr. Breault made a similar request to be paid for unused vacation time earlier in the summer, which the Board granted. Under union contract, employees are allowed to carryover 240 hours of vacation time. Mr. Breault prefers to get paid, and carryover none. Supervisor Gabriels noted that the Town has never done this before, in terms of paying someone for all the vacation they are entitled to, and he was hesitant in setting a precedent. Councilman Andersen felt the Town was obligated to pay Mr. Breault if the contract so states.

RESOLUTION #250

Councilman Andersen moved, seconded by Councilman White, to grant highway employee Steve Breault's request to be paid 2 weeks' unused vacation time, based on the terms of the union contract. All in favor. Motion carried.

Regarding C. Warren Rickels' complaint that he was charged for water he did not use,

Mr. Rickels indicates that he was not at his Sagamore condo during periods of time that he was charged for. John Perry indicates his department is still working on the problem. It is unclear as to what happened to the extra water, perhaps there was a plumbing problem, however, the meter was in good working condition when installed. K. Simmes noted that the Sagamore has checked the meter, but not necessarily the source. She added that she also read the meter, which seemed to be malfunctioning, as the dial would move forward and backward when the water was completely shut off. Supervisor Gabriels noted that the meter registered 83,000 gals of water. The Board tabled the matter in order to consult Mr. Perry.

Supervisor Gabriels referred to 3 applications that were forwarded from the ZBA to the Town Board for alternative remedial action: NICOLETTI V04-20 (non-compliance with conditions of approval), ASTRUC V04-45 (after-the-fact screened-in porch), and CUMMINGS V04-48 (after-the-fact deck). He noted that Councilman MacEwan, absent this evening, asked that the Board hold off on making a final decision so that he may participate in deliberations. Supervisor Gabriels asked Counsel what the Board's options were. Counsel read from the alternative remedy section of the zoning ordinance (§200-83), which indicated that the Board could impose a fine of up to \$12,500 and/or take action through Supreme Court to have the non-compliant construction removed. He also referred to memo from 2002 re: former Supervisor Deanne Rehm's attempt to create a consistent policy for applying alternative remedy, an idea that was contemplated but never adopted as part of the code. She suggested a fine schedule that proposed dollar amounts based on the circumstances of the violation, i.e. whether construction was done after the property owner/contractor was informed that a permit/variance was required, whether construction resulted in environmental damage, etc.

Supervisor Gabriels noted that Astruc & Cummings are on the ZBA November 15 agenda. Counsel indicated that Councilman MacEwan is not precluded from voting just because he is absent, as long as he gives full consideration to the minutes of this evening's proceedings, and states so as part of his deliberations. Counsel further advised that applicants and members of the public be allowed to speak as part of the proceedings and that any further deliberations be done in a public forum, as required under the open meetings law. The applicants were heard as follows.

NICOLETTI: non-compliance with conditions of approval

Atty Joseph Nichols, representing Maureen Nicoletti and her husband Steve Travers, indicated his clients are not sure why they are in front of the Board, as they feel they have addressed the issues of concern raised. His clients wish to be good neighbors. Regarding the issue of loitering in front of the pizza shop, Atty Nichols noted that while the owners encourage patrons not to loiter outside, they don't have the legal authority to tell them they can't stand on public property (the sidewalk). They feel they have tried to clean up and maintain the area in front of the establishment.

From the public, Annette Keenan, former owner of the subject building and current owner of Community Wines & Liquors which is located within the building, spoke, indicating that she has no complaints, and noting that she is the applicant's closest neighbor. She feels that whenever complaints arose, the owners addressed them promptly. She indicated that her business would be affected if the Pub owners were made to shut down, as she has heard rumored. Supervisor

Gabriels and Councilman Saris indicated that no one is attempting to close the business down. The Town is merely seeking the owners' compliance with the conditions of variance approval imposed by the ZBA.

Atty Nichols noted that these conditions specify that the applicant *tries* to relieve some of the congestion and *tries* to clean up the untidy area, which they feel they have done. They don't feel that congestion in front of the establishment will be a problem in the upcoming months due to the change in weather. He further noted that no one from the public has spoken unfavorably this evening.

Councilman Saris felt that the Town Board had an obligation to investigate the matter further since there are conflicting viewpoints, adding that the Board owes it to the ZBA to also make a site visit, which some members did not have a chance to do. Mr. Travers asked Board members if they drive by the location everyday. He feels the ZBA has no documentation supporting its claim, noting that this is costing them money and time. Ms Nicoletti noted she was informed that 2 Councilmen were at the site some time ago, and she asked why. Councilman Saris stated that prior to the ZBA matter, they had received (verbal) complaints about the site, adding that what he saw was far from tidy.

The question of ethics was raised when Ms Nicoletti contended that the ZBA chair (Greg Smith) and Councilman Andersen were related (sons-in-law) to the only complainant (Carol Alcan). Atty Nichols felt there was a clear conflict of interest, requiring Councilman Andersen to recuse himself. Counsel indicated that he had spoken with both Mr. Smith and Mr. Andersen, advising them that if they can make a fair decision based upon the facts of the matter, they need not recuse themselves. He added that he doesn't believe Mrs. Alcan is the complainant in this matter, but is instead in a justice court matter involving a noise complaint. Ms Nicoletti inquired as to why Councilman Andersen instructed Town personnel to remove Town benches only in front of her establishment. She feels she is being harassed.

Councilman Andersen addressed the issues by saying that he himself was one of the people who witnessed the conditions at the site early in the mornings. He added that his mother-in-law was not the only complainant, as Ross French also spoke publicly, among many others who complained directly to Councilman Andersen. Mr. Travers indicated that they had workers cleaning up at 8 am. Councilman Andersen feels that this Town takes pride in its appearance at all hours, whether it's 2:00 am, 5:00 am or 10:00 am. He doesn't feel that other bars exhibit the conditions that were present at the applicant's establishment. Mr. Travers feels the Town should be responsibility for keeping the sidewalks clean, noting that patrons who smoke are required to go outside to do so. Councilman Andersen feels that if people are going in and out constantly and contributing to the site conditions, it becomes part of the business owners' issue of running the business.

Supervisor Gabriels raised the issue of ethics again. After a brief discussion, it was suggested the matter be tabled to allow the Board more time to research the matter and to allow Counsel to review the Town's code of ethics. Members of the ZBA will be invited to participate in further deliberations.

RESOLUTION #251

Councilman White moved, seconded by Councilman Saris, to table the matter of Nicoletti: *non-compliance with conditions of approval*, for the reasons discussed. All in favor.

ASTRUC: after-the-fact screened-in porch

Mrs. Astruc's contractor, Rick Dickson, represented this application. He stated that when he started the job, there was a platform in this location, and the owner asked him to build a deck over it, then a screened porch. He thought since there was already a platform under 6" in height there, construction was allowed. Counsel read from the ZBA minutes, which indicated that the Board felt that Mrs. Astruc was well aware of the need for a permit, as she had given much scrutiny to her neighbors' project when they were in front of the ZBA.

Councilman Andersen asked Mr. Dickson what was the significance of his reference to under 6" in height. Mr. Dickson stated that he always understood there to be a regulation that if construction was under 6", it didn't require a permit. Councilman Saris noted that the requirement for a permit falls under the obligation of the property owner, as they are the ones who benefit from the improvement. He suspected that by not obtaining a permit, perhaps owners might be trying to avoid increased assessment. Councilman White felt this was different than the previous violation (Nicoletti), in that it is an obvious violation, cut & dry, and based on comments of neighbors and the ZBA, the Town Board should act on it.

Counsel advised Board members to address the issue of the fine and referral, explaining their position on whether the applicant has to remove construction or not, and whether the applicant is to return to the ZBA. Mr. Dickson explained that Mrs. Astruc is out of the Country until next summer.

Councilman Saris suspects that the ZBA would be less inclined to approve projects that involve after-the-fact variances had they been presented prior to construction. Councilman White was opposed to the idea of tabling the matter until next summer, noting that the facts are in front of the Board and people shouldn't walk away thinking this is just the cost of doing business in Bolton.

Adjacent neighbor Lee Barron spoke, contending that this is the second or third time that Mrs. Astruc constructed something prior to obtaining permits. She believes Mrs. Astruc was very aware that the work required permits. Ms Barron provided pictures showing other work done on the building without permits (she researched the tax map file), adding that she doesn't believe footings were put in for this porch. She noted that Mrs. Astruc had hired a lawyer and she returned from France for every single meeting on the Barron hearing, yet she was not present to speak on this matter involving her own property.

Councilman Saris felt that it is very helpful to visit the site, which he believes the Board hasn't had ample time to do. Counsel noted that the matter is on the ZBA agenda for November, indicating that the Town Board could act on it based on what the photos showed. He advised the matter be passed along to the code enforcement officer to act on any other violations that may exist. When asked, Mr. Dickson stated that 4' footings were poured. This is the first work that Mr. Dickson has done at this site.

From the public local contractor Jeffrey Tennent spoke, saying that the quality of construction is a matter that should be addressed by WC Building Codes Dept. If other non-compliant construction took place, it must be determined when, and what codes were in effect. Councilman Saris added that if there were 4' footings poured, there must have been the intent to build something somewhat substantial. Councilman White noted that there are a lot of talented builders and architects who go to great lengths to build projects correctly, and it would be unfair to them if violators of the code are let off without consequences.

There was a discussion referring back to the memo from January 2002, re: former Supervisor Deanne Rehm's attempt to create a consistent policy for alternative remedy. The Board discussed the fine amounts suggested in the memo, noting that the cost of building has increased over the years. After the following motion, Counsel indicated he would work with Code Enforcement Officer Mitzi Nittmann in sending a letter informing the applicant of the Board's decision.

RESOLUTION# 252

Councilman White moved, seconded by Councilman Saris, to impose a fine of \$2,000 upon the applicant Edith Astruc (parcel id # 156.12-1-1) and require that the construction that would have required a permit be removed. The applicant must pay said fine and remove said construction within 30 days. Seconded by Councilman Andersen. All in favor. Motion carried.

CUMMINGS: after-the-fact deck

Michael Cummings distributed photographs to the Board. He stated that he didn't think he explained himself clearly enough to the ZBA. He has been a part-time resident of Diamond Point for 10 years, and a year-round resident for 2 years. His situation began when he was approved for a home equity loan, and decided to do some home improvements, including repairing the stoop outside his front door. At a family gathering, his cousins and he decided to build deck. His cousins are part-time deck builders on Long Island, NY, and they were available the following week, at which time they constructed the deck in approximately 3 days.

Mr. Cummings simply overlooked the need to get permit for deck. He takes full responsibility for the violation and will pay a fine, if so required. He noted that he didn't have a survey of the property at the time he was notified that a permit was required, so he had a survey done. It reflects the as-built conditions, which indicate the deck is 5.2' from the southerly property line. Due to the location of a tree line, he thought the property line was further away than it actually is, as did his neighbor to the south, Larry Smith. Mr. Cummings noted that Mr. Smith has no objections to what was built. This is Mr. Cummings' first home and this was the first time he had ever done home improvements. He feels there is no environmental impact from the construction. Mr. Cummings noted that a neighbor who lives down the road spoke at the ZBA meeting, saying he liked the improvements, but felt the deck was a monstrosity.

Mr. Cummings believes the structure was built in 1972. The ZBA suggested that if Mr. Cummings brought the non-compliant portion of the deck into better compliance, they might be more favorable to granting the variance. Councilman Saris noted that when this house was built, there was not a scenic corridor setback, which is now in effect, making it difficult to do any

construction without requiring a permit. When asked, Mr. Cummings indicated he had never applied for (building) permits prior to this instance, adding that he has done no other construction other than cosmetic improvements. Councilman White asked Mr. Cummings if he felt his cousins were aware that permits were required, to which he indicated they probably did. They told him that people downstate often build first, then get permits. Councilman Saris noted that this may be the case, and it's often easier to get permits for compliant construction than it is for non-compliant construction. He added that this is one of the reasons communities require that their contractors be licensed, noting that the homeowner is the one who is ultimately responsible.

Supervisor Gabriels didn't feel this situation was much different than the previous one, while Councilman Saris felt it was very different. Councilman White was bothered by the fact that the deck was nearly as large as the house itself, which is approximately 1,000 sq ft. The covered porch was pre-existing when Mr. Cummings purchased the house, and it was unclear as to whether this construction met the setbacks.

There was a discussion about the ZBA's recommendation that a portion of the deck be removed. Councilman Saris felt that the specifics of the variance request should be left up to the ZBA, noting that variances are supposed to be minimum. Councilman Andersen agreed, suggesting the Board impose the same fine as for the previous applicant.

RESOLUTION #253

Councilman Andersen moved, seconded by Councilman White, to impose upon the applicant Michael Cummings (parcel id #212.02-1-2) a \$2,000 fine to be paid within 30 days, and require the applicant to return to the ZBA for consideration of the revised deck plans. All in favor. Motion carried.

Contractor Jeffrey Tennent, public in attendance, asked to address the Board regarding a problem with inconsistency in the zoning and planning office. He noted that he was in front of the Planning Board (representing BOZZONE SPR04-29) a couple of months ago, and only received his permits yesterday for a project that required site plan review because it fell within the LC25 zoning district. While at the last PB meeting, there was another item on the agenda (MOECKER SPR04-25, represented by contractor John Wells) that was subject to the same review for the same reason, but the applicant was in front of the Board because he had not adhered to the conditions of approval imposed by the Board the previous month. Mr. Tennent was upset by this, especially in light of the fact that the contractor basically stated that he was the only builder the Board could trust in this Town, yet he didn't handle things properly.

Mr. Tennent researched the Moecker file to see what was submitted and accepted on this application, and found that the applicant was not required to supply the same information he was. (Mr. Tennent noted that he does not have a problem with the applicant or the builder, but instead the process.) Regarding the Moecker application, Mr. Tennent found the following things: there was no authorization form for Mr. Wells to act as agent for the owner. The stormwater permit was issued after the certificate of compliance was issued. The plot plan showed setback distances taken from the center of the right-of-way, the width of which was not shown. Mr. Tennent stated that the stormwater information is supposed to be calculated based

on the total area to be disturbed, yet the Moecker application indicated this amount would be 3,500 sq ft, which doesn't even cover the house. The stormwater application isn't signed by anyone.

Mr. Tennent finds this upsetting because the owners whom he represented were put off for 2 months, and had to pay extra money to have their house located on the property as well as do extra steps. Meanwhile, building continues at the Moecker site, even though requirements have not been met. Mr. Tennent doesn't feel this is a problem that will be corrected with the hiring of the new code enforcement officer, as these are basic procedures that the zoning administrator should know. He asked that everyone be held to the same standard, adding that basic paperwork is not being kept properly in the zoning office, as some papers are not date-stamped received and applications aren't dated.

In closing, he noted that some (PB & ZBA) applicants are told they must have their material in the office by 4:00 on the submission deadline date, while, as he has witnessed, others are told they could bring their material the following morning. He asked the TB how they could fine people at the tail end of the process, when things are not being done properly in the beginning, adding that proper procedures should be followed so that the Town can defend itself if necessary.

The Board indicated they would look into the matter.

Supervisor Gabriels noted that there were 10 applicants who applied for the vacant position on the Planning Board to replace Mitzi Nittmann, who was hired as code enforcement officer. Interviews were scheduled for November 15 & 16 at 7 pm.

The idea of setting up a capital reserve fund for the Conservation Park facility was discussed. Supervisor Gabriels believes that establishing such a fund is a legal entity that allows for permissive referendum, a process he would like to begin. He noted that once the fund is established, the Board can determine how much to fund it. Counsel will researched as to whether the Board needs to place a cap on the amount, which the Board agreed would be \$350,000, if deemed necessary.

RESOLUTION#254

Councilman Andersen moved, seconded by Councilman Saris, to authorize Counsel to prepare the necessary documents needed to set up a capital reserve fund for the Conservation Park facility. All in favor. Motion carried.

RESOLUTION #255

Councilman Saris moved, seconded by Councilman White, to return a \$50 filing fee to Martin Smith for a subdivision application that was withdrawn (parcel id #170.00-1-29). All in favor. Motion carried.

RESOLUTION #256

Councilman Andersen moved, seconded by Councilman Saris, to establish a retirement reserve fund to hold funds from this year's budget. The retirement bill will be paid in February 2005. All in favor. Motion carried.

RESOLUTION #257

Councilman Andersen moved, seconded by Councilman Saris, to authorize the Supervisor, up to the amount of \$3,000, to contract with Lisa Nagel to hold workshops on the creation of criteria for architectural review, as enacted by Town Board Resolution #222, in order for the Planning Board to implement the Comprehensive Plan. All in favor. Motion carried.

RESOLUTION #258

Councilman Saris moved, seconded by Councilman Andersen, to develop a Local Development Corporation, to consist of 5 individuals: the Supervisor, a Councilman and 3 members of the general public. All in favor. Motion carried.

Regarding the 4 tax certiorari cases against the Town, the Town will seek appraisals.

RESOLUTION #259

Councilman Saris moved, seconded by Councilman White, retain Orr Associates at a rate of \$450 for a summary form appraisal for each residence, no more than \$1,200 each for a court-ready narrative report, \$90/hr for court time with no minimum amount (of time) required. All in favor. Motion carried.

RESOLUTION #260

Councilman Saris moved, seconded by Councilman White, to set policy to the water regulations requiring all future developments, including Cobblestone and Bluebird Cottages Subdivisions, to install "drive by" water meters. All favorable. Motion carried.

RESOLUTION #261

Councilman Saris moved, seconded by Councilman White, to authorize and approve the following change order to Lash contract for the new sewer pump station at NoRoWal in the amount of \$43,882.00, as approved by Alex Rhodes of CT Male Associates on 10/11/04. The new total price is \$190,882 (original contract was \$147,000). All favorable. Motion carried.

RESOLUTION #262

Councilman Andersen moved, seconded by Councilman Saris, to authorize and approve the following Payment Estimate #3 to Lash contract for the new sewer pump station at NoRoWal in the amount of \$41,687.90, as approved by Alex Rhodes of CT Male Associates. Balance to finish, including retainage (5%), is \$9,544.10. All in favor. Motion carried.

The matter of authorizing the permanent easement with Brickners and the Sewer Dept was tabled.

RESOLUTION #263

Councilman Saris moved, seconded by Councilman White, to authorize payment of a bill in the amount of \$2,000 to Brickners for lost income revenue for 2004 due to construction done by Lash, who will be billed by the Town for reimbursement. All favorable. Motion carried.

Tim Coon has made a verbal request to hold a rifle safety course at the Highway Garage sometime after hunting season is over. Supervisor Gabriels asked Mr. Coon to put the request in writing, but he has not yet done so. The matter was tabled.

Supervisor Gabriels informed the Board that he authorized payment in the amount of \$1,250, plus \$200 for installation, for new blinds in 12 office windows at the Town Hall.

RESOLUTION #264

Councilman Andersen moved, seconded by Saris, to authorize the purchase of 6 new office chairs and 2 filing cabinets for the Planning/Zoning/Code Enforcement office, in the approximate amount of \$1,300. All favorable. Motion carried.

Bookkeeper D. Boggs noted that his amount needed to be added to the transfer amounts.

Councilman Saris moved, seconded by Councilman White, to approve the following budget transfers for November 2004:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
GENERAL FUND		
12202 Supervisor Equipment	2204 Supervisor Contractual	\$1,000.00
31202 Police Equipment	31204 Police Contractual	500.00
51322 Hwy Garage Equip	51324 Hwy Garage Cont.	3,000.00
80201 Planning, Cont.	16202 Bldgs & Grounds, Equip.	1,400.00
16204 Bldgs & Grounds, Cont.	71104 Parks Contractual	3,000.00
71804 Ballfield Contr.	71802 Ballfield Equip	180.00
90608 Health Insurance	90408 Workmens Comp.	536.00
80201 Planning Personnel	80102 Zoning Equipment	2,000.00
Added at meeting		
80201 Planning Personnel to	80102 Zoning Equipment	1,300.00
WATER DISTRICT:		
General Fund Unexpended surplus	5031 Transfer August	\$30,000.00
General Fund Unexpended surplus	5031 Transfer September	\$60,000.00
SEWER DISTRICT		
General Fund Unexpended surplus	5031 Transfer November	\$75,000.00

All favorable. Motion carried.

At Councilman White's suggestion, Supervisor Gabriels agreed to send a letter of thanks to Matt Coon for taking pictures in association with recent storms, for which the Town will hopefully receive reimbursement.

Public in attendance:

