

TB – Minutes November 8, 2006
STATE OF NEW YORK
COUNTY OF WARREN
TOWN OF BOLTON

Present: Supervisor Alexander G. Gabriels III, Councilmen Owen Maranville (arrived at 7:16 pm), Jason Saris, Town Counsel Michael Muller, Town Clerk Kathleen Simmes

Absent: Councilmen Andersen and MacEwan

REGULAR MEETING:

Supervisor Gabriels called the regular meeting to order at 7:17pm.

Pledge of Allegiance – Jason Saris

Announcements:

Town hydrants will be flushed starting November 13, 2006 from 8:00 am to 2:00 pm.

There will be a "Holiday Weekend in Bolton" on Saturday and Sunday, December 2nd and 3rd sponsored by the Bolton Chamber of Commerce and the Bolton Business Association. The Town Hall and front steps will be used.

There will be a Special Town Board meeting on Friday, November 17, 2006 at 5:00pm in the Town Hall on the issue of "disturbance" and other zoning matters.

Seasonal road closures will take place from December 1, 2006 through April 1, 2007 for Padanarum Road and Water Plant Road.

At the December 5, 2006 Town Board meeting there will be a presentation by Graham Bailey of the Adirondack Marathon Swim requesting the use of Town of Bolton beaches for two short swim races on 6/30/07 and 7/1/07. There will also be a presentation by Jeff Tennent concerning his new restaurant and being able to take and deliver orders in Veterans Park.

Meal Site Menu is available in the Town Hall.

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

PUBLIC HEARING

1) At 7:20 pm, Supervisor Gabriels opened the public hearing on the Town of Bolton Preliminary 2007 Budget and said that the proposed figures are as follows: total appropriations for general fund, highway fund, fire district, light district, water district, and sewer district are \$4,816,574 less estimated revenues of \$3,043,981 and less unexpended balance of \$528,098 leaving the amount to be raised by taxes as \$1,244,495. There will be no increase in the highway or general fund for 2007 for Town taxes. The Fire District is the only area where local taxes will be increased at approximately \$.10 per thousand of assessment. The general fund tax rate will be \$.02 per thousand of assessment; the highway will be \$.74 per thousand of assessment. The fire district will be \$.42 per thousand of assessment and the light district will be \$.08 per thousand of assessment. The water and sewer districts funds are raised by metered usage. Copies of the proposed preliminary 2007 budget are available this evening.

Tony Hall asked if the Town Board expects Bolton Town taxes to rise in order to meet the Warren County conditions. Supervisor Gabriels responded by saying yes, he anticipates that Bolton's share of the County tax dollars tentatively will be going up approximately 22% which is another \$.70 per thousand of assessment, going from \$3.16 per thousand to \$3.87 per thousand. This is attributable to the equalization rate for Bolton, which is now at 72%. Supervisor Gabriels said that under consideration for next year's County budget are additional capital projects for the nursing home, expanding the courthouse and the potential acquisition of the Gaslight Village land for environmental purposes. Those would be new investments by the County if approved and represent a potential significant tax load

Meredith McComb, ZBA member, said there are \$0 dollars allotted for personal services equipment and other expenses that are not shown in this budget. They sometimes require studies to be done, etc. and these items don't appear to be in the budget. Supervisor Gabriels said that those items are included in the Zoning Office budget and Engineering and Research. They are not broken out individually.

There was no additional public comment at this time. The public hearing remained open.

Public in Attendance:

There was no public comment at this time.

Correspondence:

Notice of Violation from NYSDEC with regard to phosphorus levels at the Wastewater Treatment Plant.

Letter from Atty. Bob McNally requesting the Pioneer Village Association petition be postponed to the December meeting.

Letter from Bolton Central School regarding a concept of proposing a land swap between the Bolton Water District and the Bolton Town Board and the Bolton Central School. This is still a live matter as far as the Town Board is concerned.

q Letter from LGPC regarding their investigation of sites regarding disturbance.

q Letter from Jeff Anthony indicating his willingness to serve on the Bolton ZBA.

q Brochure put out by the Governor's Office for Small Cities.

q Information from Cornell Cooperative Extension.

q Letter of thanks from Bolton Free Library for the Town's continued support.

q Letter from Schoder River Associates dated October 26, 2006 regarding the potential enlargement of the septic system at the Bolton Conservation Club. There is capacity there to expand the system in order to accommodate (with the existing system and an expansion) a facility to serve 150 guests plus a few staff members.

q Letter from NYSDOH that Woodshire Estates completed improvements to its water system.

q Notification of Town of Bolton hydrant flushing.

q Letter that Nickmare Inc. d/b/a/ The Sagamore Pub is applying for a liquor license.

q Letter from Megan Baker complimenting many Town departments for their work in the Town's general physical appearance.

q Letter from Mr. Mastrianni regarding wireless internet service.

q Letter from Saratoga Associates that they will have meeting in the Town Hall on Thursday, November 16, 2006 at 1:00 pm regarding the LGPC's watershed plan.

q Request from Mitzi Nittmann to roll over unused vacation time.

q Indication from American Red Cross that they had 22 donations accepted at the last blood drive held at the Bolton Town Hall.

q Letter from Bolton Chamber of Commerce requesting the use of the Town Hall for the Christmas Holiday weekend December 2nd and 3rd.

q Correspondence from Town Counsel regarding the outstanding litigation of Verizon vs. Town of Bolton.

q Correspondence from Chuck and Janice Heiden regarding debris on a neighboring piece of property.

q Request from Bolton Chamber of Commerce to reserve \$3,500 from the Bolton Bed Tax for an ice fishing contest.

q Memorandum from Tom Jarrett report for the storm water inspection of Norwood Drive.

q Correspondence from Town Counsel that the Rainbow Beach tax certiorari case is complete.

q Letter from APA regarding a general permit for a development project by the Kudlacks.

q Correspondence from Cornell Cooperative Extension on housing and care of livestock.

q Correspondence from CT Male regarding the Bolton Sewer Treatment Plant upgrades for putting in two new pumps at the main pump station at Rogers Park to replace the three old ones

in that location.

- q Correspondence from Michael and Marilyn Maucione regarding the water situation on Lake Shore Drive abutting Paul Vega's property.
- q Correspondence from APA regarding the Urtz property determination.
- q Correspondence from Graham Bailey on the Lake George Swim Marathon requesting \$3,000 contribution from the Bolton Bed Tax.
- q Letter from Maria West regarding concerns of increased automobile speed on Wall Street. .
- q Correspondence from Colleen and Louis Golub regarding debris on same property referenced earlier.
- q Letter from Mike Murray regarding a neighbor's development and the Town of Bolton's position on enforcement action.
- q Letter from the NYMIR refusing to give an insurance quote due the unsatisfactory condition of the Edgecomb Pond dam
- q Letter from Helena Holod regarding speeding on Coolidge Hill Road and requesting the Town of Bolton take action.
- q Indication that Town's insurance carrier will not be defending the Town of Bolton in the suit of Bernard Marki vs. Town of Bolton.
- q Letter and petition by the residents of the Cotton Point/Hemlock Point/South Beach Association regarding paving Cotton Point Road.
- q Letter from Mark Roden indicating his willingness to serve on the Bolton ZBA.
- q Correspondence from Sheriff Cleavland indicating various enforcement activities he'd be willing to contract with the Town of Bolton if the Town Board so desires.
- q Correspondence with regard to Agnes Nolan vs. Emily Smith and the Town of Bolton.

Referrals from Zoning Enforcement Officer / ZBA / BPB:

Timothy Harrington, 4 Forbidden Lane-regarding extensive tree clearing without a permit
Atty. Michael Stafford, representing Timothy Harrington, said that he spoke with Mr. Harrington, Town Counsel and Code Enforcement Officer Mitzi Nittmann regarding the alleged tree cutting and he feels it would be best for him to meet with Town Counsel again in order to determine what or if there is a violation. Mitzi Nittmann said her understanding is that Timothy Harrington cut within the 75-foot setbacks of the scenic corridor on County Route 11 and that he cut after the original subdivision plan was submitted.

Supervisor Gabriels asked if it is correct that Timothy Harrington was not a participant in the original subdivision and Mitzi Nittmann said yes. Atty. Stafford said that the scenic corridor seems to make it impossible for Timothy Harrington to do anything on his property in that area and there is a very vague idea of what is the ordinance's intent. He feels further discussion is warranted.

Councilman Saris said that County Route 11 is different and the 75-foot setback on CR 11 is unique. Atty. Stafford said that the 75-foot setback is from the right-of-way and Councilman Saris said that is correct, and he believes the logic behind that was that they were trying to preserve the undisturbed look of the road, yet they still wanted to maintain the proper amount of clearing on the edge of the road for safety reasons and maintenance of the road. Atty. Stafford said that means what the Town of Bolton is saying is that there is a whole strip of land on Mr. Harrington's property that is to remain forever wild and if that is the case, then Mr. Harrington should be compensated for that.

Supervisor Gabriels said there is also a matter of tree clearing that was done on Mr. Harrington's property. Atty. Stafford replied by saying that when he read the conditions of approval for these three lots there were very specific conditions for each lot. He feels that whether those conditions were or were not complied with would have been the responsibility of the original homeowner, not Mr. Harrington, who is the third owner. Mitzi Nittmann said that her understanding of the

PB's intention was that there was originally no clearing past the blue line, then the PB allowed thinning to 100 feet from the blue line with no development or disturbance from that point.

Councilman Saris said that there is a part in the PB minutes that states that a "...no-development zone is to be left undeveloped and essentially undisturbed..." which he believes would mean whatever the PB had specified for this particular lot. These are special restrictions put on this particular parcel. Atty. Stafford said that if it was something that would be expected to be adhered to by future owners, it should be readily available, not having to be found by searching PB minutes. Timothy Harrington didn't have the intent to clear-cut. He doesn't think this will happen every year, and he would request an opportunity to see if a planting plan would be acceptable to the Town of Bolton. Councilman Saris said that he is not as concerned with the re-planting because that is a PB issue. His concern is that if the PB's intention was to not have any cutting there then there needs to be a clear understanding that this activity has to stop in order for re-growth to occur, and at the last meeting there wasn't a clear understanding of the restrictions and Mr. Harrington was very resistant to the concept that there were restrictions and that he (Mr. Harrington) might be bound by them. Atty. Stafford said that he looked at the deed and the filed County maps. They would not have given Mr. Harrington any idea of the restrictions. Councilman Saris said that it was suggested at a recent meeting that the restrictions be put on the deed, but Mr. Harrington was extremely resistant to that.

Atty. Stafford said that Timothy Harrington wants to keep his view of the lake. Councilman Saris said that he is not sure there is any way to guarantee a lake-view will remain if there is no cutting as a restriction. Mitzi Nittmann said that two restrictions were put on the property in the cutting plan that steep slope areas should be left undisturbed (she read excerpts from the cutting plan for clarification): "...Alternative A: for the top section there was the restriction of trees of species likely to provide long-term survival and good growth potential should be selected over the upper portion of the lots, average space shall be 30 feet, however some clumps may be left if good landscaping and forestry opportunity are present. The areas between the trees shall be stabilized with permanent vegetation, and for the lower section the restriction of the continuing fall of the slope below the 100-foot zone should restrict trees from interfering with the view for at least 20 years. There has been some informal discussion concerning the limited thinning of trees on the upper portion of the three lots including the 75-foot scenic corridor along County Route 11; in discussion, the question of extending the tree selection and thinning over the entire upper portion was raised from a long-term vegetative management point of view. The practice would indeed be beneficial and it would present in time a much more park-like appearance to the parcel.

Atty. Stafford said that he is not sure that Mr. Harrington was ever told he could not cut there. Mitzi Nittmann said the PB decided that area should remain undisturbed for 20 years and she believes the small envelope for thinning the PB granted was in order to keep the view.

Town Counsel read a letter from Joseph Deppe (previous Zoning Administrator) to Rolf Ronning dated August 9, 1993 citing the following specifics regarding the approval of SPR93-16: A 16-foot driveway would be allowed within the 30-foot right-of-way, where the property drops off and is steeply sloped all work will be done by hand, and the blue line is a no development or disturbance area and is to be observed very carefully. Mr. Cipperly is to supervise the work. Atty. Stafford said that this is saying that these restrictions are to be complied with by future owners, but the restrictions cannot be readily found in any documentation. He doesn't see how these conditions would apply to his client. Councilman Saris said that there is a possibility that Mr. Harrington may not have to be responsible for what is not readily recorded, but that it is a condition that he will have to comply with in the future. Atty. Stafford said that this is something Mr. Harrington has been doing every three years to keep his view.

Meredith McComb said that Zoning is something that the municipality enters into with a vote of the populous and people agree to something, and presumably somebody's tax assessments take into account the restrictions on their property. When people don't abide by that she would request the Town Board stick to the covenants that have been named. If Rolf Ronning didn't accurately record the restrictions on the deed then perhaps Mr. Harrington's issue should be with Mr. Ronning, not with the Town of Bolton. She agrees with Councilman Saris that if you cut something every three years then nothing 6 inches is ever going to appear; and she would support the Town Board in sticking to the prior PB's determination.

Town Counsel said the public notice would constitute the filing of the included subdivision map. On the map it has a depiction of a no development area (which could be open to interpretation), there is a no development line designated. There are conditions of approval listed on the map as well. Atty. Stafford would suggest that was for the original owner and were already met in completion of the project and they no longer apply. Counsel thinks the Town of Bolton's position is that the conditions applied to the original project and carry forward with the land. There are probably no cutting restrictions covenants in the deed. There is a filed map showing restrictions. Meredith McComb asked who's responsibility it would have been to record the restrictions on the deed and Counsel said it would be the subdivision developer's responsibility.

Atty. Stafford asked if his client could have permission to come up with a planting plan to satisfy the PB and the Town Board. Supervisor Gabriels said he is not sure. Councilman Saris said the areas being talked about are areas where there should be nothing done. Atty. Stafford said that there needs to be clarity from the Town of Bolton as to what they mean by no development and he would like to have his client be able to continue maintaining, not developing, the property in that area. Councilman Saris said that the lake-view works both ways and the PB is very sensitive to the view of the hillsides from the lake and he is just offering an alternative.

Kathy Bozony of the LGA said that she submitted a comment letter when she heard approximately 3 acres had been clear-cut. There are issues like erosion. She was not aware this land was not to be developed and she hopes the clear cutting areas will be held to a restriction for 5 years to enable re-growth. Mitigating this is very critical especially after the conditions imposed in the past.

Atty. Stafford said that the record has to be clear that Mr. Harrington has not been shown as having cut a single tree, only sumac and brush. The Town of Bolton needs to prove that Mr. Harrington actually did clear-cut. Councilman Saris said that he believes that by Mr. Harrington's own admission he cleared brush and in this specific area it says nothing can be removed. Atty. Stafford said that means the Town of Bolton is saying that Mr. Harrington cannot cut a single root, shrub, etc. within the 75 feet, which is absurd. Councilman Saris said that Rolf Ronning, not Mr. Harrington, did the initial cutting. Atty. Stafford said that there was a view when Mr. Harrington bought the property and there is still a view, but Mr. Harrington is not the one that cut that initial view. Councilman Saris said he believes the PB wanted a forever wild no development no disturbance zone.

Councilman Saris asked if the TB has the authority to make a change to a PB condition and Counsel said he is not comfortable with the TB changing a PB's decision. He believes the alternative remedy was initiated as an alternative to litigation. Part of the solution that could be included in the alternative remedy could be replanting, imposing a civil penalty, etc. or even that the conditions are properly recorded; "development" according to the Code is "...other activity which materially changes the use or appearance of land..." and doesn't mean that Mr. Harrington actually built something, but he (Counsel) believes that what Mr. Harrington is accused of is some sort of activity that materially changes the use or appearance of the land; and he suggested that the TB allow Atty. Stafford to present a plan at the next TB meeting regarding a

middle ground.

Mitzi Nittmann asked about the PB's decision and Counsel said that the PB's decision still stands. The map is out there and the restrictions are on the map, including Mr. Cipperly's notes. Councilman Saris asked if the TB needs to view a proposal based on the PB's intent of restrictions and Counsel said yes. The TB cannot change the PB decision, but Mr. Harrington can approach the current PB for relief. Counsel read the PB's ruling from the 08/24/06 minutes as follows: "...Motion by Henry Caldwell to recommend to the Town Board that they; 1) impose the maximum civil penalties. 2) A replanting plan is to be approved by the Planning Board. 3) Mr. Harrington is to enter into an agreement with the Town, stating that any legal fees incurred by the Town of Bolton are to be paid by him. This must be a deed covenant. Seconded by Sue Wilson. All in favor. Motion Carried.". Atty. Stafford said that the matter hasn't gone before the PB yet. Supervisor Gabriels said the TB asked the PB for its recommendations on the matter. Counsel said that it was a recommendation by the PB and that enforcement could be criminal, civil or an alternative remedy (which has worked in the past).

Councilman Saris said that he thinks it is very plausible for people saying they didn't know. He thinks the focus should be on what happens in the future, and he thinks the TB should listen to Mr. Harrington's proposal on what would satisfy the conditions and take it from there. Atty. Stafford said that Mr. Harrington was clearly not intending to violate the corridor restrictions. He measured it from the edge of the road thinking that was the property line and now understands the 75-foot setback is from the right-of-way. Councilman Maranville asked if Mr. Harrington measured before cutting and Atty. Stafford said that on CR11 Mr. Harrington measured 75' from the side of the road then added 4 feet to make sure it was okay. There are no stakes and he thinks his client did nothing malicious in the corridor and this should be able to be taken care of it by replanting. Councilman Saris said that he agrees that it may have been an honest mistake, but he also feels that Mr. Harrington needs to present a plan on how to remedy the situation.

Counsel said that Mitzi Nittmann had sent an additional notice to Mr. Harrington regarding additional cutting taking place and Atty. Stafford said that Mr. Harrington told him it was done by a neighbor to get access to his leach field. Counsel said that he suggests that Mr. Harrington not cut anything while this is going on. Supervisor Gabriels said that should include that Mr. Harrington not give permission to any neighbors to cut on his property as well. Atty. Stafford said that to the extent that he can, he will.

RESOLUTION #221

Councilman Saris moved, seconded by Councilman Maranville, to table the Harrington matter in hopes that a proposal will satisfy the terms of the restrictions on the property for both issues. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Supervisor Gabriels suggested these matters take place at special Town Board meetings in the interest of time for the regular Town Board meeting.

Neal McHugh, 206 Coolidge Hill Road—violations

Stephanie Bitter representing Neal McHugh stated that Mr. McHugh though he needed PB approval before appearing before the TB which is why he was not here last month, Mr. McHugh does have a major storm water plan submitted and should be on the next PB agenda. The reason for the clearing was to enable a crane to be on premises to install a post and beam house, and they feel that they have adhered to all the August 2006 conditions.

Zoning Administrator, Pam Kenyon verified that a major stormwater plan has been submitted to her office and that the item will be on the next PB agenda.

Councilman Saris asked if the Code Enforcement Officer is satisfied with what has been done. Mitzi Nittmann said that she believes Town Engineer, Tom Nace has approved the most recent plan for the major stormwater and septic. Mr. McHugh has done everything he was asked to do to stabilize that site going into the future and she feels he is now in compliance and should be allowed to proceed. Mr. McHugh said he put up a fence so any allegations brought up against him in August 2006 cannot happen at this point. Supervisor Gabriels said that he feels the grade of the septic was handled, because it has not been brought up by the Town Engineer in his report. Mitzi Nittmann said that regarding neighboring wells, they would have to wait until spring to even find the one well that was addressed in August.

Supervisor Gabriels said that Town Engineer Tom Nace submitted a report on the leach field requesting a new perc. test be performed in the spring. Mitzi Nittmann said that there should be ample room if the perc. rates are the same or closely similar. P. Kenyon said that the septic is on a 13.7% or a 13.9% grade, which is acceptable and she has letters from Derrick, of DL Dickinson Associates and Tom Nace that the proposed septic area is adequate and she agrees.

Meredith McComb said that she believes and asked if it is correct that Mr. McHugh did something other than what was shown on the original plans that P. Kenyon approved. P. Kenyon said that was true. M. McComb said that she encourages the Town Board move to forward with alternative remedies or penalties because people who do things right in this Town are starting to look around and feel like a putz because other people don't follow the rules. She doesn't know why the Zoning Administrator should have to question documents that come to her. If things turn out to be not right down the road then the ZBA, at the very least passed a resolution, that if documents were presented to the ZBA under the legal signature of a professional and it turned out there are mistakes then this would be reported to the state licensing agency. She thinks a lot of the problems homeowners are facing are that maps are inaccurate and surveys are not right. She encourages the TB to look back at the minutes in regard to professionals being reported if they are doing business wrongly and she encourages the TB to protect the homeowners, developers and contractors who are trying to do business right in this town from things that don't measure up.

Neal McHugh said that when he was here in August 2006 he said he wanted to fix the problem. There has been no stormwater leaving his property. A fence was put up, and all of the accusations came from one person, Mike Murray. In August 2006 Mr. Murray couldn't locate the well; and he feels attacked by planning and zoning and specifically by a ZBA member and he is concerned about his plans even going to these boards for fear that there is some kind of plan against him. Supervisor Gabriels said that M. McComb's comments were not a personal attack and Mr. McHugh is oversensitive by taking it personally when it was not meant to be.

Atty. Bitter said that they are looking to get PB review and approval. They have taken action to rectify an unintentional situation. Councilman Saris said that he is satisfied that Mr. McHugh has complied with what the TB asked for in August 2006 and the question now is whether a civil penalty should be imposed. M. Nittmann asked what the project intention is regarding timeframe and Neal McHugh said that it would be done this fall when or if he gets PB approval.

Councilman Saris said that while he believes that Mr. McHugh didn't do this intentionally, the contractor was aware of the plan that was submitted and went beyond the scope and it is ultimately the homeowner who is responsible for the contractor's actions. Past practice of the TB has been asking the violator to bring the project into compliance, to impose a \$500 civil penalty and suggests the TB continue that precedent, impose a \$500 civil penalty and put an end to this matter since everything else has been brought into compliance as the TB requested (with the understanding that anything else done on the property must remain in compliance). Atty. Bitter asked if her client could put the \$500 for the civil penalty into a planting plan instead of paying it

to the Town of Bolton. Councilman Saris said that past practice is that the applicants pay the civil penalty to the Town of Bolton.

RESOLUTION #222

Councilman Saris moved, seconded by Councilman Maranville, to impose a civil penalty of \$500 for clearing beyond the limits of his plan for the Neal McHugh property located on Coolidge Hill Rd. tax map # 212.02-1-13 to be payable to the Town of Bolton and submitted to the Town Clerk within 30 days and for the final condition of the letter dated November 8, 2006 from Town Engineer Tom Nace be adhered to. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Meredith McComb asked if the Town Board could report to the state licensing board when errors occur so people who are not adhering to the rules of the Town of Bolton will no longer be able to work here. Counsel said that while he is not necessarily encouraging it, the Town Board or anybody has the authority to write a letter making the representations as true facts and submit them to the proper licensing authority, the Department of Education, and that department will make the investigation. Supervisor Gabriels said this matter will be on next month's TB meeting agenda for discussion.

Board of Health/Water Commissioners:

Vega - Septic Variance

This item has been resolved without the need for a variance as the system was moved to the correct location.

Reports:

It was noted that Town Dept. reports were received.

Supervisor Gabriels:

SUPERVISOR:

q Total receipts: \$125,830.34 Total disbursements: \$527,521.91 with an additional receipt and disbursement of \$20,081.95 for the BLDC.

Unfinished Business:

Public Hearing on Cuts and Fills

This item is pending.

Pioneer Village Improvement Association—Request for Extension Until December 2006

Rolf Ronning request to exchange a parcel of land for a cemetery and the Town take over his subdivision road

This item is pending Highway Dept. review and feedback.

ZBA Vacancy

Supervisor Gabriels said the Town of Bolton has received two letters of interest. Councilman Saris said he thinks the TB should set up interviews with the interested parties.

Antique Light Replacement

Supervisor Gabriels said the Town of Bolton received the following three bids for antique street light replacement: Warren Electric--\$16,145, ASCO Electric--\$16,514.28, and Glens Falls Electric--\$28,671.03 and noted that these bids were sent out by John Gaddy representing the Town of Bolton at the Town's request and asked if it would satisfy the Town's purchasing policy. K. Simmes said that she did not put this out to bid; John Gaddy did and is not sure if our purchasing policy has been met. Per Counsel's request, the Town Clerk will put antique light replacement out

to bid.

Jackie Castro—South Farm Escrow Account
This item is pending.

Bolton Police Department—Policy Revisions and Personnel for 2006/2007
This item is pending.

Pending Items:

There was no information given or action taken on any pending items.

New Business:

Health Insurance Coverage

Supervisor Gabriels asked if the authority to sign the contract for health insurance is a legislative matter or purely an executive matter. Counsel said that the Supervisor cannot enter into (sign) a contract on behalf of the municipality without a resolution of the Town Board.

Authorize Contract for Health Insurance Plan Renewal to Continue Plan for December and then Switching Plan Effective January 1, 2007—Blue Cross of NENY

RESOLUTION #223

Councilman Maranville, seconded by Councilman Saris to authorize the Supervisor to sign the contract for the Health Insurance Plan. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Highway Union—Grievance—On Health Insurance Plan (Carrier Provisions vs. Contract Provisions)
Supervisor Gabriels said the union wants the Town to enter into the contract on their behalf but they have a grievance. Donna Boggs said that the current agreement renews automatically if action is not taken. Counsel said that the union is looking for the Town to find them a comparable policy or the Town will be in default and the current policy will automatically renew with changes.

Supervisor Gabriels said that the options are for the Town of Bolton to let the policy automatically renew or sign the grievance form to waive the time limit for getting this resolved by the end of December. Counsel said that by virtue of the grievance the accusation is that the contract has been violated and the union recommends the Town of Bolton find a comparable policy.

Supervisor Gabriels said that the union contract is currently under negotiations so this may not be the sole or final union request. Counsel said that he doesn't have the union contract in front of him, but hypothetically there is some specification in the contract saying that the municipality shall provide XY&Z coverage and the employee's contribution shall be X amount and now in even staying with the same company that contractual guarantee manifested changes somehow. Councilman Saris said that the Town Board needs to know what the policy changes would be in order to find a comparable policy. Counsel agreed that the Town Board would need to find out what the policy changes would be. Donna Boggs said that one of the changes is that union members would have to pay \$40 for a hospital visit where it is \$0 now and the union submitted a spreadsheet with the MVP plan that they currently have, the Empire Blue Shield plan, and Blue Cross plan. Supervisor Gabriels said that they all had changes.

Council said that the attempt is to match the plan and if it is not a perfect match then the grievance is not necessarily correct in that is a match that does not have a materially change, comparable or cost, for example, a union member's responsibility for a hospital visit going from \$0 to \$40 is considered a material change.

RESOLUTION #224

Councilman Maranville moved seconded by Councilman Saris, to authorize Supervisor Gabriels sign the grievance form for the Highway Department Union regarding health insurance. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Further discussion ensued on the matter regarding the different insurance plans.

Approve Town Hall Use for "Holiday in Bolton"

RESOLUTION #225

Councilman Maranville moved seconded by Councilman Saris to approve the use of the Town Hall for the "Holiday in Bolton" event scheduled for December 2nd and 3rd. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Sound Permit—Carol and William Munson—Bixby Estate, Wedding Reception—Saturday, June 30, 2007

Councilman Maranville suggested that neighbors within 500 feet of the location be notified of the request to have music to 11:00 pm.

RESOLUTION #226

Councilman Saris moved, seconded by Councilman Maranville, to approve the application to 10:00 pm and will extend it if all neighbors' approval is received. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Close Public Hearing on Preliminary 2007 Budget

There was no further public comment on the Preliminary 2007 Budget at this time.

RESOLUTION #227

Councilman Saris moved, seconded by Councilman Maranville, to close the public hearing on the Town of Bolton Preliminary 2007 Budget. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Close Highway Department Capital Projects Account (Highway Garage) and Apply Full Amount to Highway Garage Debt in 2007 Budget

RESOLUTION #228

Councilman Saris moved, seconded by Councilman Maranville, to close the Highway Department Capital Projects account and apply the full amount to the Highway Garage Debt in the Town of Bolton 2007 Budget. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

RESOLUTION #229

Councilman Maranville moved, seconded by Councilman Saris, to adopt the Town of Bolton 2007 Budget. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Decide on Consent Order—Verizon vs. Town of Bolton Regarding Assessment

This item was tabled per Counsel's recommendation, because the numbers are not properly set forth in the written specifications. The matter will be ready for next month's Town Board meeting.

Authorize Contract for Professional Services—Elan Planning & Design for Preparation of Grant Application to NYSDOS—Quality Communities Program

Supervisor Gabriels said this grant would give a 20% match of local funds for assistance in writing subdivision regulations consistent with the Zoning Code and revisions to the stormwater regulations and evaluate the Scenic Overlay District and Elan Planning is proposing to prepare the grant application on an hourly basis not to exceed \$2,600 with expenses at cost.

RESOLUTION #230

Councilman Saris moved seconded by Councilman Maranville to adopt the following resolution: Be it resolved, that Supervisor Gabriels is hereby authorized to sign a proposal presented by Elan Planning & Design, Inc. of Saratoga Springs, NY to submit a grant application to the New York State Department of State Quality Communities Program to request funding to revise the subdivision ordinance and

Be it further Resolved, that the fee for Elan Planning & Design, Inc., to provide the above services is lump sum, not to exceed \$2600 plus necessary expenses. All Favorable. Motion Carried. Councilman Andersen and MacEwan Absent

Authorize Contract for Professional Services—Elan Planning & Design for Preparation of Policies and Procedures for Zoning Office/Code Enforcement—Hourly Basis Not to Exceed \$7,500

RESOLUTION #231

Councilman Saris moved seconded by Councilman Maranville to authorize the contract for professional services for Elan Planning & Design for the preparation of policies and procedures for the Zoning Office and Code Enforcement on an hourly basis not to exceed \$7,500. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Approve Use of Bolton Bed Tax Funds in the Amount of \$1,522.15 for the Bolton Chamber of Commerce Fun Day on October 6, 2006

RESOLUTION #232

Councilman Maranville moved, seconded by Councilman Saris, to authorize the use of Bolton Bed Tax funds in the amount of \$1,522.15 to for the Bolton Chamber of Commerce's Fun Day held on October 6, 2006 in conjunction with the Town wide Garage Sale. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Approve Roll-Over of 45 Hours of Vacation Time for Mitzi Nittmann, Code Enforcement Officer

RESOLUTION #233

Councilman Maranville moved seconded by Councilman Saris, to approve the rollover of 45 hours of vacation time for Mitzi Nittmann, Code Enforcement Officer, to the next anniversary year—11/01/06—10/31/07. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Approve Roll-Over of 64 Hours of Vacation Time for Lisa French, Transfer Station, to Next Anniversary Year—10/16/06—10/15/07

RESOLUTION #234

Councilman Saris moved, seconded by Councilman Maranville, to approve the rollover of 64 hours of vacation time for Lisa French to the next anniversary year—10/16/06—10/15/07. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Approve Payment of Three Weeks Vacation Time (120 Hours) to Matt Coon, Highway Department—He Has 304 Hours Presently and Will Have 184 Remaining

RESOLUTION#235

Councilman Saris moved, seconded by Councilman Maranville, to approve the payment of three weeks vacation time (120 hours) to Matt Coon, Highway Department. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Approve Request to Erect an Osprey Nesting Site within the Pond at Conservation Park—Possible Use of Bolton Bed Tax Money

Supervisor Gabriels said that the request would entail erecting a hemlock pole about 15-feet high with a platform on the top and a brace down below, so there may be a minimal cost for using Bolton Bed Tax money.

RESOLUTION #236

Councilman Maranville moved, seconded by Councilman Saris, to approve the request to erect an osprey-nesting site within the pond at the Conservation Park with the possible use of Bolton Bed Tax money. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

RESOLUTION #237

Councilman Saris moved, seconded by Councilman Maranville, to authorize the Budget Transfers as follows:

FROM TO AMOUNT

General Fund:

19904 Contingency 56502 Off Street Parking, Equip \$5,000

56504 Off St. Parking Cont. 56502 Off Street Parking, Equip. 600

10104 Town Board 16202 Buildings & Grds Equip. 380

10104 Town Board 30102 Public Safety 50

31201 Police, Personal 51324 Garage 15,000

81602 Landfill, Equip. 51324 Garage 5,000

71101 Parks Personal 16201 Bldgs & Grounds 14,000

71101 Parks Personal 71104 Parks Cont. 4,000

71802 Ballfield 71504 Cons. Park Cont. 1,000

71802 Ballfield 71804 Ballfield Cont. 500

Highway Fund:

Increase Budget FEMA Monies 25,096.20

51304 Machinery 25,096.20

Water District

83102 Administration Equip 83104 Adm. Contractual 2,000

All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Approval of Lake George Watershed Conference Bills

RESOLUTION #238

Councilman Saris moved, seconded by Councilman Maranville, to approve payment of the Lake George Watershed Conference bill as submitted by voucher by Dave Decker on 11/06/06 in the amount of \$104,406.98 for June to October 31, 2006, pending approval by K. Millington (DOS) and pending availability of funds payable from NYS for payment under Lake George—planning for Future contract C006506. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Comments of Public in Attendance:

Barry Kincaid, of KLC Property Enhancement, handed out paperwork to the Town Board members. He stated he works very hard to keep his business on the up and up with Town of

Bolton codes; and asked if the Town of Bolton has a policy or procedures for coming onto private property unannounced.

Counsel said that the property owners' rights to privacy are first and foremost. The procedural way is that if the PB, ZBA, Town Engineer and/or Code Enforcement Officer would actually go onto property by virtue of the fact that consent has been granted, there is not a permit application. They were properly in pursuit in investigating some violation of the penal law that is not in the code and/or they have sought and obtained an administrative search warrant, meaning that a property owner has already said they don't want anybody on their property, but the proper case would have to be presented to the proper judge who granted the administrative search warrant; and he feels Barry Kincaid is in the narrowest area of that a person should not be on the property accepting Barry Kincaid's facts as so.

Barry Kincaid said that his clients are very private people and have been violated and this is a disgrace that has and is damaging and downgrading his company. He will not accept it. Supervisor Gabriels said that there is a special TB meeting that may address this issue and there is an outstanding list of about 1-2 dozen property owners who have requested notification prior to Town of Bolton Zoning staff going on their properties. Barry Kincaid said that he understands that if there is a violation/permit/written complaint then there would be grounds for the Town requesting permission to come on the property to check it out, but there are none of these in this matter, so this is wrong and he won't stand for it.

Councilman Saris said that there are different issues here; if what Barry Kincaid has stated is true then as Council said, and then a mistake was made. He feels further review of this situation is warranted before the TB can comment on the matter further as this is the first they are hearing about this particular matter.

Supervisor Gabriels read from Barry Kincaid's handout requesting that Code Enforcement Officer M. Nittmann be removed from her position.

Other Business

Town of Bolton Arts & Crafts Fair Locations

Supervisor Gabriels said the location is still pending.

Payment of Town Bills:

RESOLUTION #239

Councilman Maranville moved seconded by Councilman Saris to pay the Town bills. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Executive Session:

Councilman Maranville moved, seconded by Councilman Saris, to adjourn the regular meeting and enter executive session at 10:25 p.m. to discuss pending litigation and confidential communications. All favorable. Motion carried. Councilman Andersen and MacEwan Absent

Councilman Maranville moved, seconded by Councilman Saris, to adjourn executive session and reconvene the regular meeting and adjourn at 11:30 pm. All favorable. Motion carried.

Councilman Andersen and MacEwan Absent

Minutes transcribed by: Respectfully submitted by:

Jennifer Torebka Kathleen Simmes

Recording Secretary Town Clerk

11/19/2006