

STATE OF NEW YORK  
COUNTY OF WARREN  
TOWN OF BOLTON

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

Pledge of Allegiance - Councilman MacEwan

Supervisor Gabriels called the meeting to order at 7:10 pm.

*Announcements:*

- There is a Democratic primary election on Tuesday, September 14, 2004 at the Town Hall
- The Town Clerk has received a petition containing 183 valid signatures requesting a referendum on the Town's proposal to purchase 56.4 acres off CR11. The matter will be placed on the ballot Nov 2, 2004 - General Election Day (Supervisor Gabriels read 2 versions of proposed language for the referendum, signified as Alternate #1 and Alternate #2)

RESOLUTION #197

Councilman Saris moved, seconded by Councilman Andersen, to adopt Alternative #2 as the language for the referendum for the Town's proposal to purchase 56.4 acres of land off of CR11, known as (part of) tax map #139.00-1-46.1. Alternative #2 reads as follows: *Shall the resolution of the Town Board for the Town of Bolton to purchase real property consisting of 56.4 acres of vacant land (constituting a portion of Town of Bolton tax map parcel number 139.00-1-46.1) for the sum of \$387,500.00 be approved?* All favorable. Motion carried.

- Supervisor Gabriels attended an AHEC meeting on T-1 lines for an electronic village within the hamlet of Bolton
- There is a joint meeting between APA Commissioner Deanne Rehm and Planning, Zoning, and Town Board chairs and members scheduled for 7 pm Tues, Sept 14 to discuss the APA's role in local zoning
- NYS DOT is contemplating blasting rock at the south end of Town
- The Town's rowboat has been missing from Rogers Park since August 30
- There is a parade scheduled on Sat, Sept 18 at 12 noon to honor Ross French for his 50 years of service to the Fire Dept
- Bolton United/Bolton Cares is conducting a Bolton Hometown Pride Day on Sun, Oct 3 in Veterans Park
- Meal site menu available
- There are now 2 Town of Bolton website addresses: [.town.bolton.ny.us](http://town.bolton.ny.us) and [.townofboltonlanding.com](http://townofboltonlanding.com)

*Public in attendance:*

Susan Barden and Julie Martin of the LGA gave a presentation on the Indian Brook Remediation Program, which includes dredging of the Indian Brook delta. They cited current development, such as that at Wright's Farm Subdivision, as posing serious environmental problems to the Lake. They are seeking the Town's support by implementing better erosion control practices inland so that dredging projects such as this are effective, and not required on a regular basis.

Cindy Ackerle, a homeowner within the Indian Brook watershed, spoke in support of the LGA, noting that the Association's efforts are fruitless if the Town doesn't enforce its zoning codes/stormwater regulations. She did not feel it was unreasonable to request a \$1M bond from developers of large construction sites when the cost for remediation projects, such as this for Indian Brook, well exceeds \$1M.

Rod Owens, adjacent landowner to Veterans Park, noted the decreased water depth in the area of Veterans Beach over the last 30 years due to the sand at the beach washing into the water, resulting in the loss of public dock space. He suggested that if there is dredging equipment in the area of Finkle Brook, the Town should use the equipment in an effort to reclaim the docks there.

*Correspondence:*

Request by John & Terry Powers to name a private road accessing their new home (under construction) on the old Tomahawk property "Powers Court"

Letter from Maureen Nicoletti of Lakeshore Drive (Sagamore Pub) requesting a written response from Supervisor Gabriels to her verbal complaint about a Town Councilman

Invitation from Town of Queensbury Dan Stec for area supervisors and others to attend a luncheon on Wed, Sept 15 to discuss upland development with members of the LG Watershed Conference

Notice from Bolton United/Bolton Cares of their upcoming Hometown Pride Day on Sun, Oct 3 in Veterans Park

General information and request for Town financial support from Phil Farbaniec, sponsor of the Labor Day Music Festival

Letter from Doris French, expressing her apprehension in attending this year's Town-sponsored Family Cruise because of the unpleasant experience she had in a previous year, due to the lack of parental supervision of children on the boat. On another matter, she requested that a portion of the State funds delegated for clean-up of Lake George be used at Bixby Beach.

Legal notice from the zoning office concerning three Zoning Board of Appeals applications (Scott, Emanuele and Nicoletti) for properties within 500' of Town property

E-mail from Elaine Brown of the Chamber of Commerce asking that the Town act on her request (approved by the Board last year) to install a public water fountain in Rogers Park

Request from Highway Dept employee James LaFoy to be paid for 1 week's unused vacation time

Request from Zoning Administrator Pam Kenyon (pursuant to Town Board Resolution #9 of January 6, 2004) to take 4 consecutive weeks of vacation commencing Sept 2, 2005 through Sept 30, 2005

Request for a septic variance from Helen Whitaker of Lake Winds Subdivision

- Letter from the LGA re: septic concerns involving an island property for which the ZBA recently granted a variance
- Copy of a resolution requiring re-approval by the Town Board for the 1996 Clean Water Clean Air Bond Act (for the Finkle Brook stormwater project)
- Report from James Harrison, PhD of Darrin Fresh Water Institute re: stocking of fish in Conservation Park Pond
- Major project notifications from APA re: modifications to Sagamore Hotel (tax map # 171.16-1-16) and a 3-lot subdivision on the Lavit property off CR11 (tax map #139.00-1-70 & 71)
- Letter from NYS DOH re: Woodshire Estates water system
- Notice from WC DPW seeking Town approval of the revision to the snow and ice removal contract
- Notice of Violation from DEC for high nitrate levels in well #5 at the Sewer Plant
- Letter of concern from Lee Harrison of Topside re: work that was done by the Highway Dept along Potter Hill, which damaged Topside property
- Letter from Caren Hoffman-Smith informing the Town that the summer reading program at the Library was a success
- Letter from Hakan and Joan Herrmans supporting the use of PWC's on Lake George
- Letter of complaint from Fred Lethbridge re: recent solicitation from Time Warner
- Post-closure monitoring report for the landfill from CT Male
- Correspondence re: the Rainbow Beach Association tax grievance proceeding
- Copy of letter from Counsel to the Jensens inquiring as to progress on addressing their failed septic system
- Letters from Bolton business owners Pam Kimak, Cate Van Dyck and Heidi Hess suggesting ways to disburse occupancy tax funds
- Letter from the Bolton Business Association requesting funds for holiday decorations, fireworks and flower boxes, and suggesting year round use of public restrooms
- Letter from Ray Oliver re: alleged encroachment onto town property by a private property owner near Lower Brereton Road
- Letter from Counsel to legal members in the Lake Ridge Subdivision stormwater plan litigation
- Notice from GF Hospital inviting Supervisor Gabriels to tour their building expansion construction site
- Notice from Time Warner re: problem with the MSG Fox Sports network
- Correspondence re: easement language for the new sewer pump station off Norowal Road
- Four notifications of tax assessment complaints
- APA 2003 Annual Report
- Letter from Keith Fish of the LGPC re: annual fees collected by the Commission
- Meeting minutes from the Lake Champlain LG Regional Planning Board
- Notice from NYS DOH that they need the Town to resubmit test results at the Water Plant
- Correspondence re: repairs to C&D ramp at Transfer Station
- Letter from the Office of Real Property Services re: coordination between the Town and State entities on assessments

*Reports:*

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Councilman White:

ASSESSOR:

The Dept continued with maintenance of deeds and transfers. Mr. Rosebrook attended a couple of tax assessment grievance hearings.

WATER DEPT:

Water made: 11,666,623 gals, average daily use: 376,342. Pond level is well over the spillway due to heavy rains. Dept has been busy with routine Plant maintenance, and assisting the Sewer Plant with high water alarms. A copper sulfate treatment was done on the Pond. There were several wash-outs along the Town's water main.

JUSTICE COURT:

A/R: Judge Demarest - \$5,775. Stewart - \$5,035. Total: \$10,810.

POLICE DEPT:

Hours officers worked: White - 194, Howse - 158, Schroeder - 72.5. Miles patrolled: 2,062. Fuel used: 260.3 gallons. Officers investigated 8 criminal reports, 4 found property, 1 assist to a motorist, 4 assists to other agencies, 1 security alarm, 9 traffic summons, 32 parking tickets, 12 auto accidents, 1 domestic complaint, 4 court securities, 14 arrests for open container, 1 ticket for noise ordinance, 23 emergency medical assists, 4 fire dept assists, and 21 misc complaints.

Councilman Saris:

TOWN CLERK:

Total local shares: \$28,442.22. Non-local: \$934.82. Total state, county and local revenues: \$29,377.04.

SEWER DEPT:

The Plant took in 9,462,456 gals of wastewater for a daily average of 305,240 gals. There were 10.9" of rain in August, which caused these high volumes. Plant Operator Chet Dagles reports a big I & I (infiltration & inflow) problem at the Plant. The heavy rainfall made a lot of extra work for the Dept, who the Board commended along with the Water Dept for their hard work. Nitrate ammonia testing for DEC continues at the Plant. Many high water alarms, and problems with grease in the system. Councilman Saris reminded the public that grease is not supposed to enter the system.

HIGHWAY DEPT:

The Dept was very busy with road maintenance and repairs from washouts due to the heavy rainfalls. The Board also commended the Highway Dept for their efforts.

Councilman Andersen:

PLANNING OFFICE:

Permits applied for: 10 certificates of compliance / 5 wastewater disposal systems / 10 variances / 5 site plan reviews / 0 subdivisions / 3 stormwater permits. 141 miles traveled. A/R: \$1,990.98. Outstanding issues to be addressed later on agenda.

**BUILDINGS & GROUNDS DEPT:**

Dept has been asked to address the rusting bathroom petitions in the public restrooms.

**RECREATION DEPT:**

Attendance in certain programs was down a bit, presumably due to adverse weather conditions this summer.

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Councilman MacEwan:

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**TRANSFER STATION:**

A/R: \$9,370. 4 loads of metal were hauled out this past week. Lisa French requests that the Board establish the transfer station's winter hours. Plans are being discussed for repairing the C&D ramp. Ms French will take her vacation from Sept 27 - Oct 2.

Supervisor Gabriels

**SUPERVISOR:**

Total receipts: \$300,224.23. Total disbursements: \$627,947.81. Discussions continue over the use of the County's portion of the 3% occupancy tax.

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*Unfinished Business:*

RESOLUTION #198

Councilman Saris moved, seconded by Councilman MacEwan, to adopt a revised resolution for the WC snow & ice removal contract for 2005, reflecting a 3% increase and the additional work of mowing the County highways by Town forces at a rate of \$115 per mile. All favorable. Motion carried.

RESOLUTION #199

Councilman MacEwan moved, seconded by Councilman White, to accept, upon satisfactory field testing, a new contract with Tri Sales/ Neptune Technology for a meter reader system with the following revisions: a decrease in the amount of the contract to \$1,600 each of 5 years, bringing the contract price to \$8,000 plus a one-time software training at \$800, for a total 5-yr contract price of \$8,800. All in favor. Motion carried.

Supervisor Gabriels noted that 14 applications were received for the code enforcement Officer position. The Board will meet at 1 pm on Tues, September 14 to go over the applications, after which time the Board will schedule interviews.

Regarding the Jensens' failed septic, Counsel has not yet received a response from the Jensens on how they intend to bring their property into compliance.

### RESOLUTION #200

Councilman Andersen moved, seconded by Councilman Saris, to authorize Counsel to proceed with further enforcement action by court order in the matter of the Jensens' failed septic system (tax map #123.00-2-55). All favorable. Motion carried.

Regarding the alleged water contamination issue at the Donohue property on Mohican Road (tax map #171.19-1-10), Town Engineer Tom Nace has made a site visit but has not yet provided the Town with a report.

Regarding the Greenmeir-Hubbell illegal subdivision, Counsel reported that Atty John Ray, representing Greenmeir, indicated at the last Planning Board meeting (where they proposed a subdivision to bring the property into compliance) that all parties involved, with the exception of Don Kingsley, have signed off on the subdivision. Atty Ray indicated that Mr. Kingsley verbally agreed to the proposal, but Counsel has not been able to confirm this as of yet.

No action was taken on the floating concrete pads at the highway garage, as no contractors have expressed interest in providing a quote on repairing the pads.

Regarding the outstanding stormwater/zoning issues with Robert Parotta, Counsel reported that Mr. Parotta will likely be served papers in the upcoming week. Counsel noted that the escrow for this matter was forfeited, and he suggested the matter be placed back on the agenda next month to assess fines.

The Town Board received a request for a septic variance from Helen Whitaker of 91 Lake Winds Road (tax map # 200.00-1-2), as she wishes to add an attached garage to her home in a location that would encroach upon the setback from her existing leach field. The matter was tabled pending the applicant obtaining the associated setback variance from the Zoning Board of Appeals for the garage.

*New Business:*

### RESOLUTION #201

Councilman Andersen moved, seconded by Councilman White, to authorize the Supervisor to sign and submit an application for matching grants of \$1,600 with the NYS Division of Youth. All favorable. Motion carried.

### RESOLUTION #202

Councilman Saris moved, seconded by Councilman MacEwan, to authorize Counsel to defend the Town on 4 tax certiorari cases (Peebles, Martinese, Killeen and Mancini) at a rate of \$125 per hour. All favorable. Motion carried.

Regarding the outstanding Rainbow Beach certiorari case, Counsel stated the situation was unfortunate in that the case was settled, but the appropriate paperwork didn't get filed on time and the petitioner has since changed their position. Counsel awaits a return phone call from the petitioner's attorney, and advised that bills associated with this matter not be paid at this time.

RESOLUTION #203

Councilman Saris moved, seconded by Councilman MacEwan, to name a private road on the old Tomahawk property “Powers Court” at the request of John Powers, who is building a home on property accessed by this road (tax map #200.00-1-19). All favorable. Motion carried.

RESOLUTION #204

Councilman Andersen moved, seconded by Councilman White, to grant the zoning administrator authorization to assign names to private roads. All favorable. Motion carried.

Counsel read aloud proposed language for job descriptions of zoning administrator and code enforcement officer for the Board’s consideration as amendments to Section 200-72 of the zoning ordinance. Councilman Saris asked if adoption of this language would allow the code enforcement officer to keep the zoning office running when the zoning administrator is on vacation. Counsel indicated it would.

RESOLUTION #205

Councilman Saris moved, seconded by Councilman Andersen, to schedule a public hearing on Tuesday, October 5 at 6:30 pm for the proposed amendment to the zoning ordinance as follows:

**§ 200-72. Zoning Administrator/Code Enforcement Officer**

The Zoning Administrator and/or the Code Enforcement Officer shall have the power and duty to administer and enforce the provisions of this chapter. The Zoning Administrator and/or Code Enforcement Officer shall be appointed and may be removed at the pleasure of the Town Board. An appeal from an action, omission, decision or rule by the Zoning Administrator regarding a requirement of the Code shall be made to the Zoning Board of Appeals. An appeal and hearing from a stop-work order issued by the Code Enforcement Officer shall be made to the Planning Board or the Zoning Board of Appeals depending upon the nature of the project and the specifics of the stop-work order. All enforcement powers specifically authorized to the Zoning Administrator by any Chapter, Article or Section of this Code shall, without limitation, also be authorized to the Code Enforcement Officer and agents or designees of that individual with the full force and effect as if made by the Zoning Administrator as herein specified. All Favorable. Motion Carried.

Supervisor Gabriels read aloud a proposed amendment to the zoning ordinance suggested by Counsel following recent Planning Board discussions, pertaining to *Section 200-53 Architectural Review*.

RESOLUTION #206

Councilman Andersen moved, seconded by Councilman White, to schedule a public hearing on Tuesday, October 5 at 6:45 pm for the proposed amendment to Section 200-53 Architectural Review of the zoning ordinance as follows.

**§ 200-53. Architectural Review**

- A. As enacted/no change.
- B. As enacted/no change [including subsections (1) and (2) inclusive.]

C. [NEW] The Planning Board in furtherance of the requirements of the purposes of this Section shall be empowered to enact and adopt by resolution and amend, modify or supplement written rules and regulations constituting specific “criteria” for consideration under its architectural review powers herein granted. Current rules and regulations specifying architectural review “criteria” shall be available to the public and all interested parties from the Zoning Administrator. All Favorable. Motion Carried.

It was noted that adoption of this language would assist the Planning and Zoning Boards in their ability to guide applicants to propose projects in harmony with the Comprehensive Plan.

RESOLUTION #207

Councilman Saris moved, seconded by Councilman White, to authorize a 5-year statutory installment bond for the Sterling 2004 tandem dump truck in the amount of \$133,963 at 3.8 % with Evergreen Bank. All favorable. Motion carried.

RESOLUTION #208

Councilman Saris moved, seconded by Councilman Andersen, to renew the contract with Casella Transportation, Inc. for hauling liquid sludge at a rate of 10.3¢ per gallon. All favorable. Motion carried.

RESOLUTION #209

Councilman Saris moved, seconded by Councilman Andersen, to reauthorize the resolution with DEC to continue with the Finkle Brook Remediation Project. All favorable. Motion carried.

RESOLUTION #210

Councilman White moved, seconded by Councilman MacEwan, to authorize Schoder-River Associates for design of concrete retaining walls at the Transfer Station. All favorable. Motion carried.

The Board took no action on the matter of proposing a salt storage shed for the Highway Dept.

Supervisor Gabriels noted that the new sewer pump by Norowal was installed slightly over the easement line. CT Male and Counsel will handle the change in the easements.

RESOLUTION #211

Councilman White moved, seconded by Councilman MacEwan, to authorize the distribution of funds not to exceed \$2,500 for the Adirondack Group plus \$400 for barbershop singing from the occupancy tax funds. Philip Farbaniec will submit vouchers for the above events before payment is made. All favorable. Motion carried.

RESOLUTION #212

Councilman White moved, seconded by Councilman Andersen, to authorize distribution of \$1,300 of the occupancy tax funds to the Bolton Business Association for holiday wreaths for the Town, with the condition that the appropriate vouchers are submitted. All in favor. Motion carried.



RESOLUTION #213

Councilman Andersen moved, seconded by Councilman Saris, to authorize the distribution of \$500 of funds to the Chamber of Commerce for promotional purposes for the Town wide garage sale in October, upon submission of appropriate vouchers and approval of the same by the Supervisor. All in favor. Motion carried.

Councilman White suggested a formal application process be implemented in the future for requests for allocation of occupancy tax funds. Counsel will draft such a voucher for the Board's consideration.

RESOLUTION #214

Councilman Saris moved, seconded by Councilman MacEwan, to grant the request of James LaFoy to be paid 1 week's unused vacation time. All favorable. Motion carried.

RESOLUTION #215

Councilman Andersen moved, seconded by Supervisor Gabriels, to grant the request of Zoning Administrator Pam Kenyon to utilize 4 consecutive weeks of vacation time commencing Friday, September 2, 2005 - Friday, September 30, 2005, noting that a code enforcement officer would be hired and trained by then. All favorable. Motion carried.

Supervisor Gabriels noted that Pioneer Village would like to engage the services of CT Male to do an engineering study on the prospect of extending the municipal waterline to Pioneer Village for seasonal use. Alex Rhodes of CT Male is wondering if this would be a conflict of interest, since the Town is currently utilizing their services. Neither the Board nor Counsel felt there would be a conflict of interest.

RESOLUTION #216

Councilman Andersen moved, seconded by Councilman Saris, to declare that there is not a conflict of interest with CT Male conducting an engineering study for Pioneer Village Association on the feasibility of extending the municipal waterline to Pioneer Village for seasonal use, noting that the Association would assume all costs. All favorable. Motion carried.

Regarding the bill incurred by the Town for garbage cleanup at the Zill property (tax map #140.00-1-31), the debt will be added onto Mr. Zill's January tax bill.

Regarding the broken waterline at Bluebird Cottages, Counsel sent correspondence to property owners Philip & Cynthia Farbaniec and to Don Kingsley, the contractor responsible for the break, requesting that the matter be addressed, specifically that the Town be reimbursed for costs associated with repairing the line. Counsel awaits a response.

RESOLUTION #217

Councilman White moved, seconded by Councilman Andersen, to approve the following budget transfers for September 2004:

FROM

TO

AMOUNT

GENERAL FUND:		
16204 Buildings & Grounds	71104 Parks	\$ 500.00
HIGHWAY FUND:		
Unexpended Balance	51104 Road Repairs	\$20,000.00
SEWER DISTRICT:		
General Fund unexpended surplus	5031 Transfer August	\$30,000.00
General Fund unexpended surplus	5031 Transfer Sept.	\$60,000.00

All favorable. Motion carried.

Supervisor Gabriels noted that P. Kenyon is scheduled to meet with Dave Decker of the LG Watershed Conference to discuss local and state regulations, as Mr. Decker has had difficulty organizing a meeting with Town Board members.

The matter of filling the position of school crossing guard was discussed. Councilman Andersen suggested that the Police Dept cover the duties until a replacement guard is found, and in the meantime an ad be placed indicating the option of applying for either the morning or afternoon shifts. Previous applicants will also be contacted and informed of this option.

On other business, Councilman Saris suggested that in keeping with the implementation of the Comprehensive Plan, the Town engage the services of ELAN to do a waterfront feasibility analysis for the Town at a cost of \$5,800, noting that there was \$20,000 allocated in the budget for implementation of the Plan.

RESOLUTION #218

Councilman Saris moved, seconded by Councilman Andersen, to engage the services of ELAN to do a waterfront feasibility analysis for the Town at a cost of \$5,800. All favorable. Motion carried.

Councilman White suggested the Board hold another informational meeting prior to the vote on the Town purchasing a parcel of land from Ronning, Inc. The Board scheduled a meeting for September 28 at 7 pm at the Town Hall. Notice will be given in the local newspapers.

*Public in attendance:*

No comments

RESOLUTION #219

Councilman Saris moved, seconded by Councilman MacEwan, to pay the LG Watershed Conference bills in the amount of \$24,103.73. Voucher was submitted on 09/03/04, as approved by K. Millington (DOS), pending availability of funds from NYS, for payment under contract C006305 - LGWC and Plan for the Future. All favorable. Motion carried.

RESOLUTION #220

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

Councilman Andersen moved, seconded by Councilman Saris, to adjourn at 9:38 pm. All favorable. Motion carried.

Transcribed by:

Melanie Quigan  
Recording Secretary  
08/21/04

Respectfully submitted by,

Kathleen Simmes  
Town Clerk